



Community Development Department

**BISMARCK PLANNING AND ZONING COMMISSION
MEETING AGENDA
November 15, 2017**

Tom Baker Meeting Room

5:00 p.m.

City-County Office Building

Item No.

Page No.

MINUTES

1. Consider approval of the minutes of the October 25, 2017 meeting of the Bismarck Planning & Zoning Commission.

**CONSENT AGENDA
CONSIDERATION**

The following items are requests for a public hearing.

2. **Lot 2, Block 1, Boulder Ridge 5th Addition (JW)**
Zoning Change (R5 to RM20) | ZC2017-0201
Staff recommendation: schedule a hearing ☐ *schedule a hearing* ☐ *continue* ☐ *table* ☐ *deny*
3. **Lots 4 and 5, Block 1, Duemeland's Third Addition (JW)**
Zoning Change (MA and MB to MB) | ZC2017-0215
Staff recommendation: schedule a hearing ☐ *schedule a hearing* ☐ *continue* ☐ *table* ☐ *deny*
4. **Part of the N½ of Section 17, T139N-R80W/Hay Creek Township (Klee)**
Zoning Change (A to R5, R10, RM10, RM15, RT, Conditional RT and
Conditional CA) | ZC2017-0229
Hay Creek Township
Staff recommendation: schedule a hearing ☐ *schedule a hearing* ☐ *continue* ☐ *table* ☐ *deny*
5. **Part of the NW¼ of Section 16, T139N-R80W/Hay Creek Township (Klee)**
Zoning Change (A to R5, RM15, RT and Conditional CA) | ZC2017-02317
Hay Creek Township
Staff recommendation: schedule a hearing ☐ *schedule a hearing* ☐ *continue* ☐ *table* ☐ *deny*



6. **2014 Growth Management Plan Amendment - Urban Service Area Boundary and Phasing Plan (DN).....23**

Staff recommendation: schedule a hearing ☐ schedule a hearing ☐ continue ☐ table ☐ deny

REGULAR AGENDA
FINAL CONSIDERATION/PUBLIC HEARINGS

The following items are requests for final action and forwarding to the City Commission

7. **Sattler's Sunrise Tenth Addition (DN)29**

- Annexation | ANNX2017-004

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

- Zoning Change (A to R5 and P) | ZC2017-017

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

- Major Subdivision Final Plat | FPLT2017-006

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

8. **HR Subdivision (WH)43**

Hay Creek Township

- Zoning Change (A and RR to RR) | ZC2017-015

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

- Major Subdivision Final Plat | FPLT2017-008

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

9. **Lot 7, Block 3, KMK Estates (WH) – Zoning Change (R5 to R10) | ZC2017-01851**

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

10. **Nonconforming Uses (Klee) – Zoning Ordinance Text Amendment | ZOTA2017-01157**

Staff recommendation: approve ☐ approve ☐ continue ☐ table ☐ deny

OTHER BUSINESS

11. **Other**

ADJOURNMENT

12. **Adjourn.** The next regular meeting date is scheduled for **December 20, 2017.**

Enclosures: Meeting Minutes of October 25, 2017
Building Permit Activity Month to Date Report for October 2017
Building Permit Activity Year to Date Report for October 2017

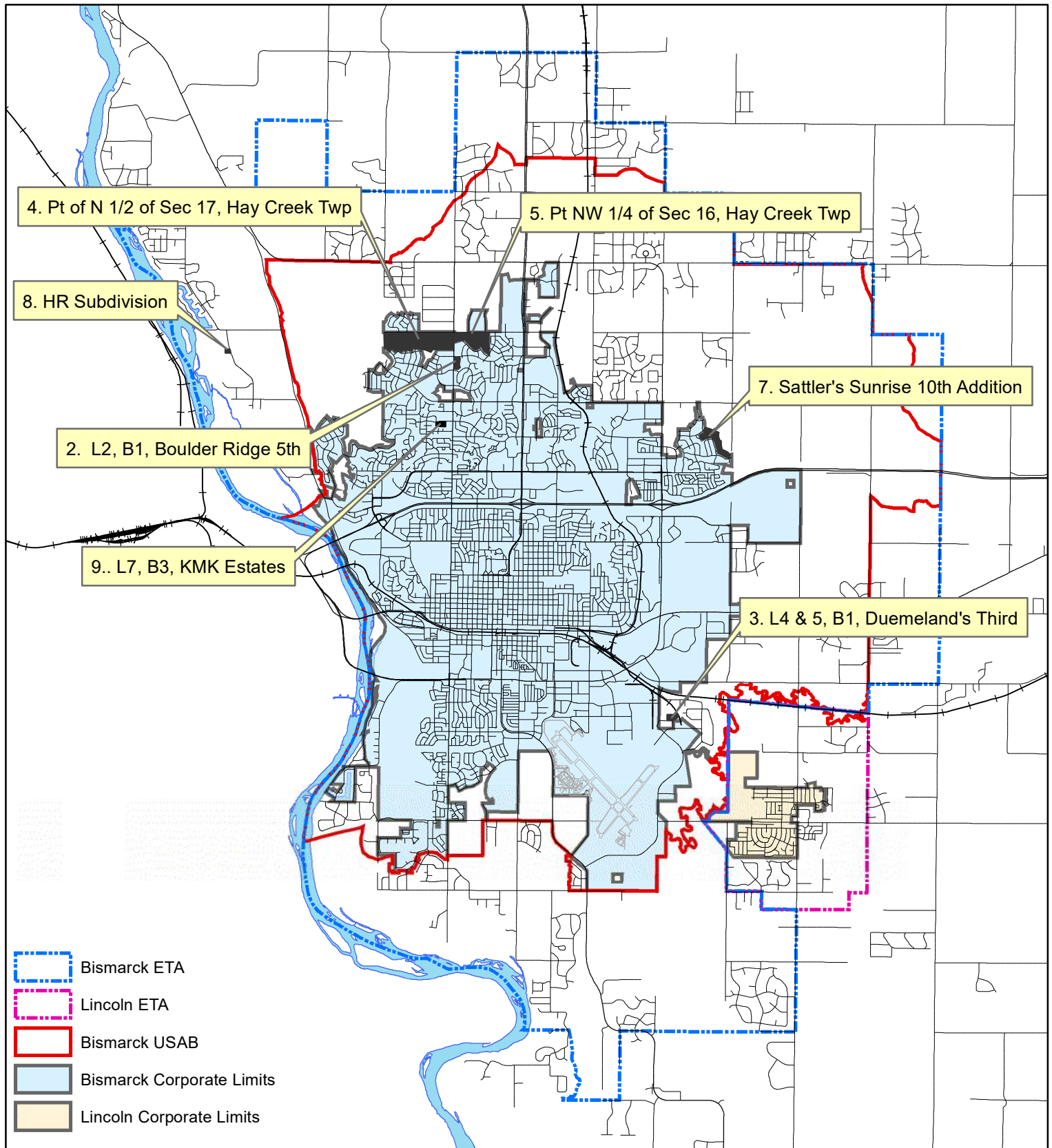
BISMARCK PLANNING AND ZONING COMMISSION PUBLIC HEARING PROCEDURE AND PROTOCOL

All public hearings before the Bismarck Planning and Zoning Commission will follow the same basic format. This outline has been prepared to help you understand the procedure and protocol.

1. The Chair of the Planning and Zoning Commission will introduce the item on the agenda and ask staff to present the staff report.
2. The Planner assigned to the file will present the staff report on the item. The presentation will be an overview of the written staff report included in the agenda packet, which is posted on the City's website by the end of the day on the Friday before the meeting.
3. The members of the Planning and Zoning Commission may ask staff questions about the request itself or staff's recommendation, but they will not discuss the request prior to obtaining input from the public.
4. The Chair of the Planning and Zoning Commission will then open the public hearing on the request and ask if anyone would like to speak to the Commission.
5. The applicant or his or her designated agent is usually given the courtesy of speaking first to outline the proposal and/or clarify any information presented by staff. The applicant may speak at this time or wait until others have spoken.
6. The public hearing is then opened to the public to voice their support, opposition or to ask questions about the proposal. Please write your name and address on the sign-in sheet, step up to the podium, speak clearly, state both your first and last names and your address, then your comments. Speaking over the microphone rather than directly into it will provide the best audio quality. Also, please avoid tapping or banging the podium, as the microphone amplifies the sound. Your comments as well as any materials distributed to the Planning and Zoning Commissioners at this time will be made part of the public record. If you would prefer to provide written materials to staff at the beginning of the meeting, we will distribute the materials to the Commission for you.
7. Please be respectful of the Planning and Zoning Commissioners, staff and others speaking on the request. Personal attacks against the applicant or others, clapping/cheering or booing speakers is not acceptable. Staff and the applicant will only respond to questions from the Planning and Zoning Commissioners, not questions directly from those speaking at the public hearing.
8. Everyone who wishes to speak will be given a chance to speak; however, at larger public hearings, the Chair may ask speakers to limit their time at the podium to five minutes, not repeat previous testimony/comments and only speak once. Members of the Planning and Zoning Commission may ask questions of those speaking, but may also listen and deliberate after the hearing is closed.
9. After everyone in the audience wishing to speak has given his or her comments, the Chair will close the public hearing portion for the agenda item. No additional comments from the public are allowed after the hearing has been closed. At this point, the Chair will ask staff if they have any additional information or final comments.
10. The Planning and Zoning Commissioners will then discuss the proposal. They may ask staff or the applicant additional questions or for clarification of items stated during the public hearing. At the conclusion of the discussion, the Commission will make its recommendation or decision.

General Location Map

Planning Commission Meeting - November 15, 2017



November 2017

0 4,000 8,000 16,000 Feet

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.





STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

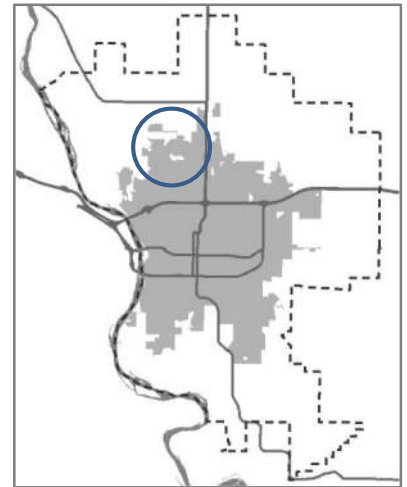
Agenda Item # 2
November 15, 2017

Application for: Zoning Change

TRAKiT Project ID: ZC2017-020

Project Summary

<i>Title:</i>	Lot 2, Block 1, Boulder Ridge 5 th Addition
<i>Status:</i>	Planning & Zoning Commission – Consideration
<i>Owner(s):</i>	Ron and Ruth Knutson (owner) Todd Berning (applicant)
<i>Project Contact:</i>	Todd Berning
<i>Location:</i>	In northeast Bismarck, between East Lasalle Drive and Medora Avenue, along the east side of North Washington Street.
<i>Project Size:</i>	7.5 acres
<i>Request:</i>	Rezone property for future assisted living facility.



Site Information

Existing Conditions		Proposed Conditions	
<i>Number of Lots:</i>	1 lot in 1 block	<i>Number of Lots:</i>	1 lot in 1 block
<i>Land Use:</i>	Single-family residential	<i>Land Use:</i>	Multi-family residential
<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan	<i>Designated GMP Future Land Use:</i>	Already zoned. Not in Future Land Use Plan
<i>Zoning:</i>	R5 – Residential	<i>Zoning:</i>	RM20 – Residential
<i>Uses Allowed:</i>	R5 – Single-family residential	<i>Uses Allowed:</i>	RM20 – Multi-family residential
<i>Max Density Allowed:</i>	R5 – 5 units / acre	<i>Max Density Allowed:</i>	RM20 – 20 units / acre

Property History

<i>Zoned:</i>	10/2012	<i>Platted:</i>	10/2012	<i>Annexed:</i>	10/2012
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Staff Analysis

Todd Berning and Ron and Ruth Knutson are requesting approval of a zoning change from the R5 – Residential zoning district to the RM20 – Residential zoning district for Lot 2, Block 1, Boulder Ridge 5th Addition. If approved as proposed, the zoning change would allow for the future construction of an assisted living facility.

The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include a grade school (Liberty Elementary) to the north, across East Lasalle Drive, an undeveloped R5 – Residential zoned lot and undeveloped property to the east, a stormwater and drainage easement and single-family uses along the south side of the property and a religious facility to the west, across North Washington Street, recently rezoned to allow a continuum of care facility.

Required Findings of Fact (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning

classification at the time the property is developed;

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing on the zoning change from the R5 – Residential zoning district to the RM20 – Residential zoning district for Lot 2, Block 1, Boulder Ridge 5th Addition.

Attachments

1. Location Map
2. Zoning and Plan Reference Map

Staff report prepared by: Jenny Wollmuth, AICP, CFM, Planner
701-355-1845 | jwollmuth@bismarcknd.gov

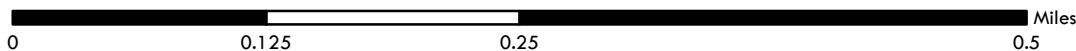
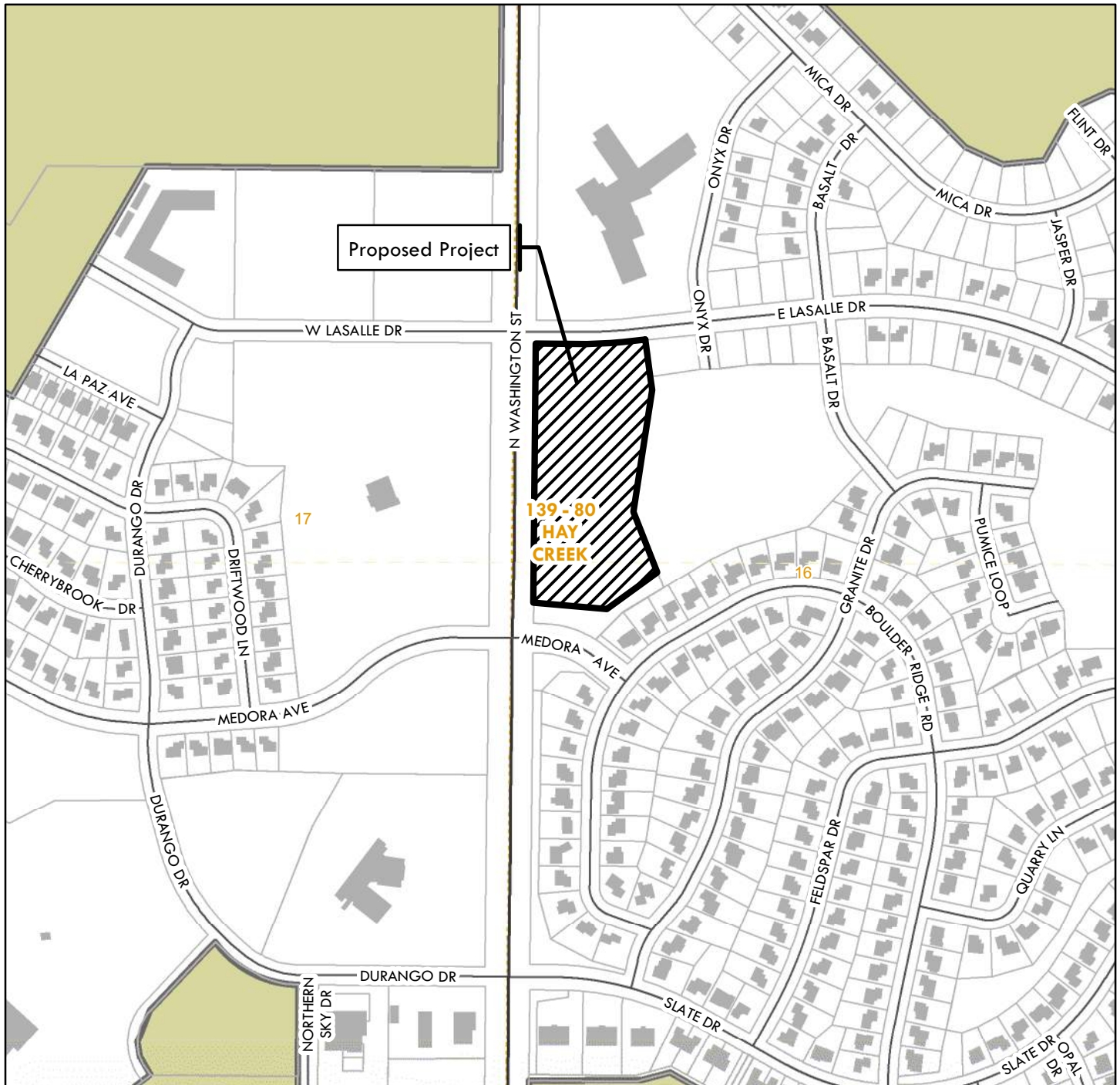


Proposed Zoning Change (R5 to RM20)

Lot 2, Block 1, Boulder Ridge 5th Addition

Trakit Project ZC2017-020

Location Map

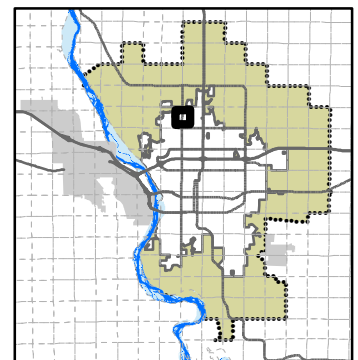


City Limits



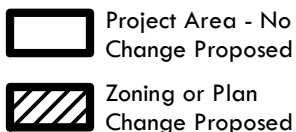
Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange

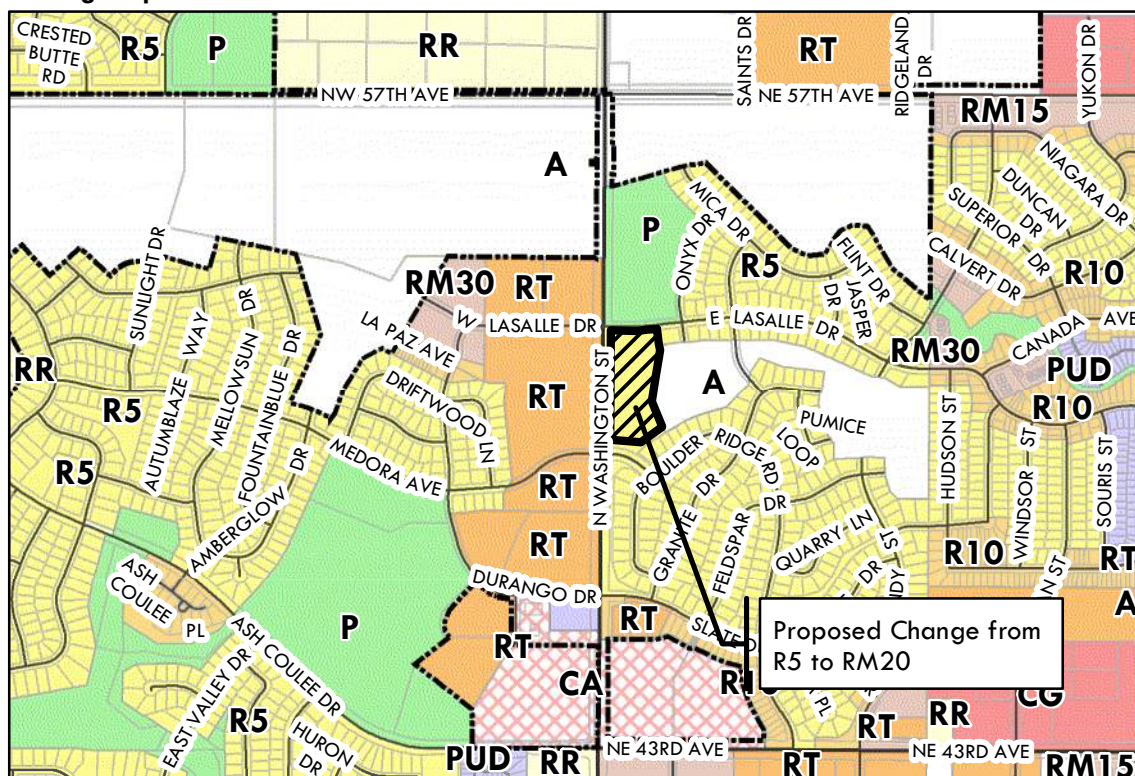


City of Bismarck
Community Development Department
Planning Division
October 13, 2017 (HLB)

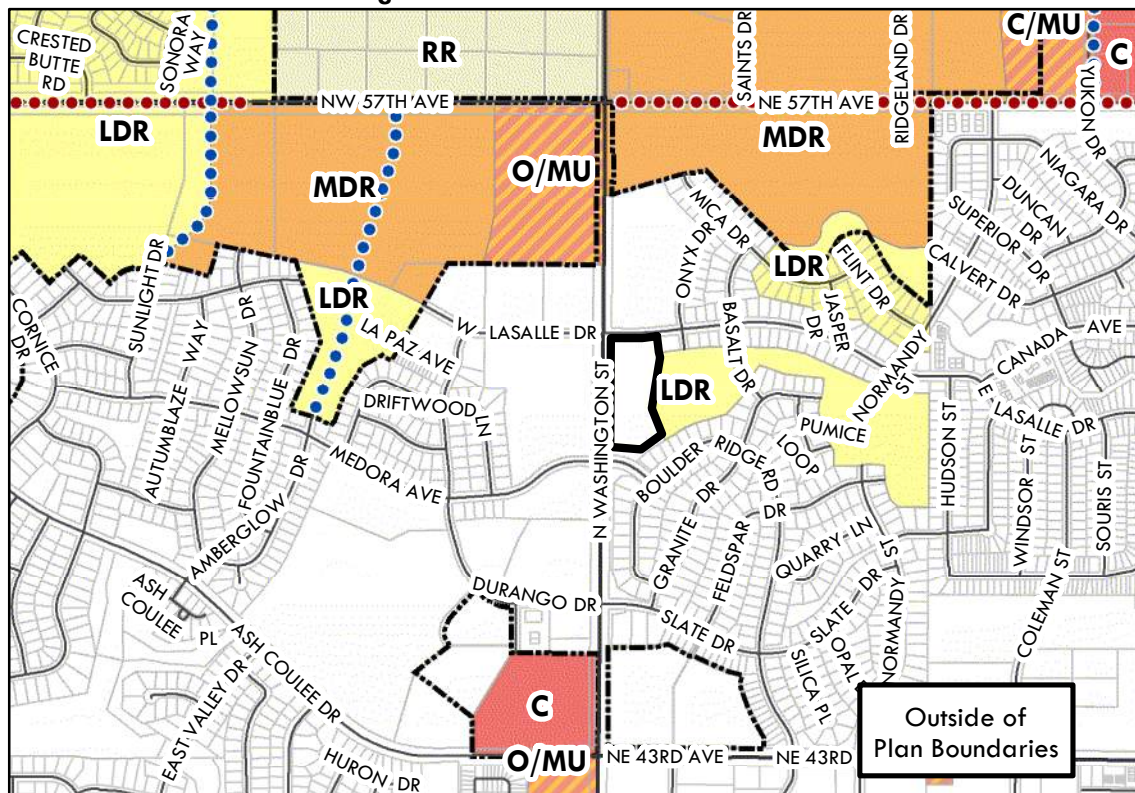
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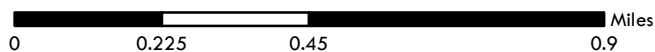
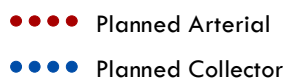
Zoning Map



Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan



City Limits

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City of Bismarck
Community Development Dept.
Planning Division
November 7, 2017



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

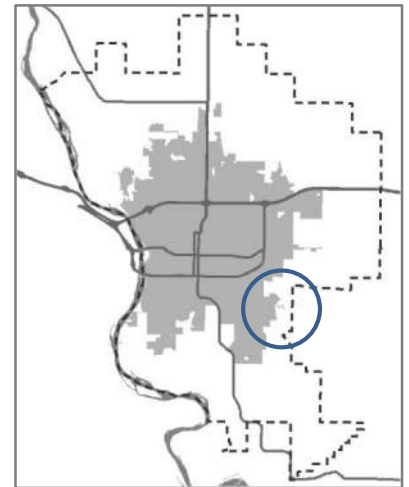
Agenda Item # 3
November 15, 2017

Application for: Zoning Change

TRAKiT Project ID: ZC2017-021

Project Summary

Title:	Lots 4 and 5, Block 1, Duemeland's Third Subdivision
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Capital Investments JMS Land Development, LLC.
Project Contact:	Landon Niemiller, Swenson Hagen and Company
Location:	Southeast of Bismarck
Project Size:	6.73 acres, more or less
Request:	Rezone property to clarify zoning boundary and allow for approval of a lot modification.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	2 lots in 1 block	Number of Lots:	2 lots in 1 block
Land Use:	Industrial	Land Use:	Industrial
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan	Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	MA – Industrial MB – Industrial	Zoning:	MB – Industrial
Uses Allowed:	MA – Light industrial, general commercial, warehouses, manufacturing and shop condos MB – Heavy industrial, manufacturing, general commercial, and services	Uses Allowed:	MB – Heavy industrial, manufacturing, general commercial, and services
Max Density Allowed:	MA – N/A MB – N/A	Max Density Allowed:	MB – N/A

Property History

Zoned:	Pre-1980	Platted:	09/1988	Annexed:	N/A
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Staff Analysis

Capital Investments and JMS Land Development, LLC. are requesting approval of a zoning change to bring both Lots 4 and 5 into one zoning district and to allow approval of a proposed lot modification for Lot 4.

The proposed zoning change would be compatible with adjacent land uses. Adjacent land uses include industrial uses to the north, south across Cartridge Loop, east and west.

Required Findings of Fact (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. Burleigh County and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning

classification was established or by an error in the zoning map;

5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing on the zoning change from the MA – Industrial and MB – Industrial zoning districts to the MB – Industrial zoning district for Lots 4 and 5, Block 1, Duemeland's Third Subdivision.

Attachments

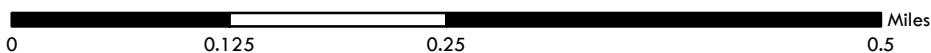
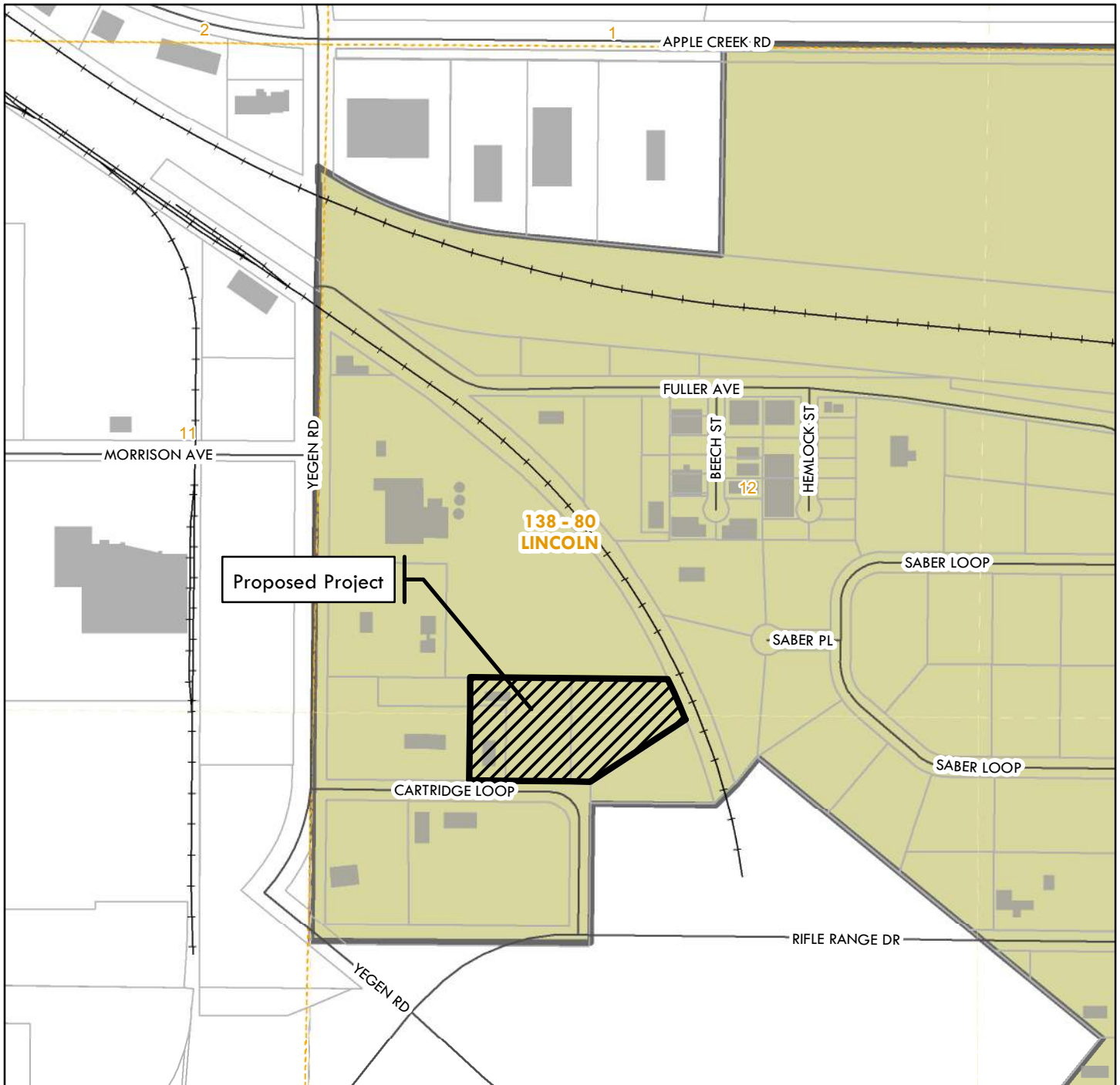
1. Location Map
2. Zoning and Plan Reference Map

Staff report prepared by: Jenny Wollmuth, AICP, CFM
701-355-1845 | jwollmuth@bismarcknd.gov



Proposed Zoning Change (MA to MB)
Lots 4 and 5, Block 1, Duemeland's Third Subdivision

Trakit Project ZC2017-021
Location Map



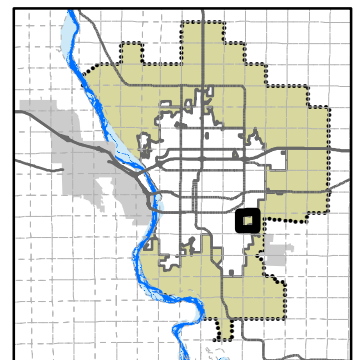
 City Limits  Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
November 7, 2017 (HLB)

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Proposed Zoning Change (MA and MB to MB)

Lots 4 and 5, Block 3, Duemlands Third Subdivision

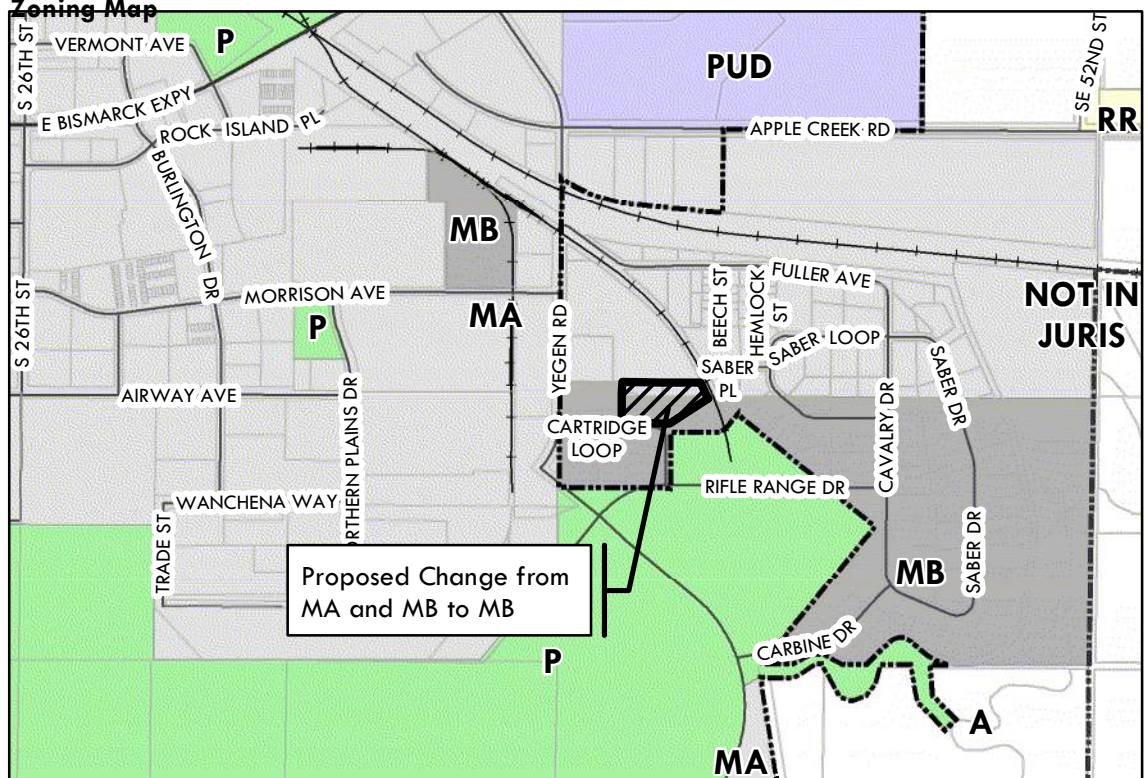
Zoning and Plan
Reference Map

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

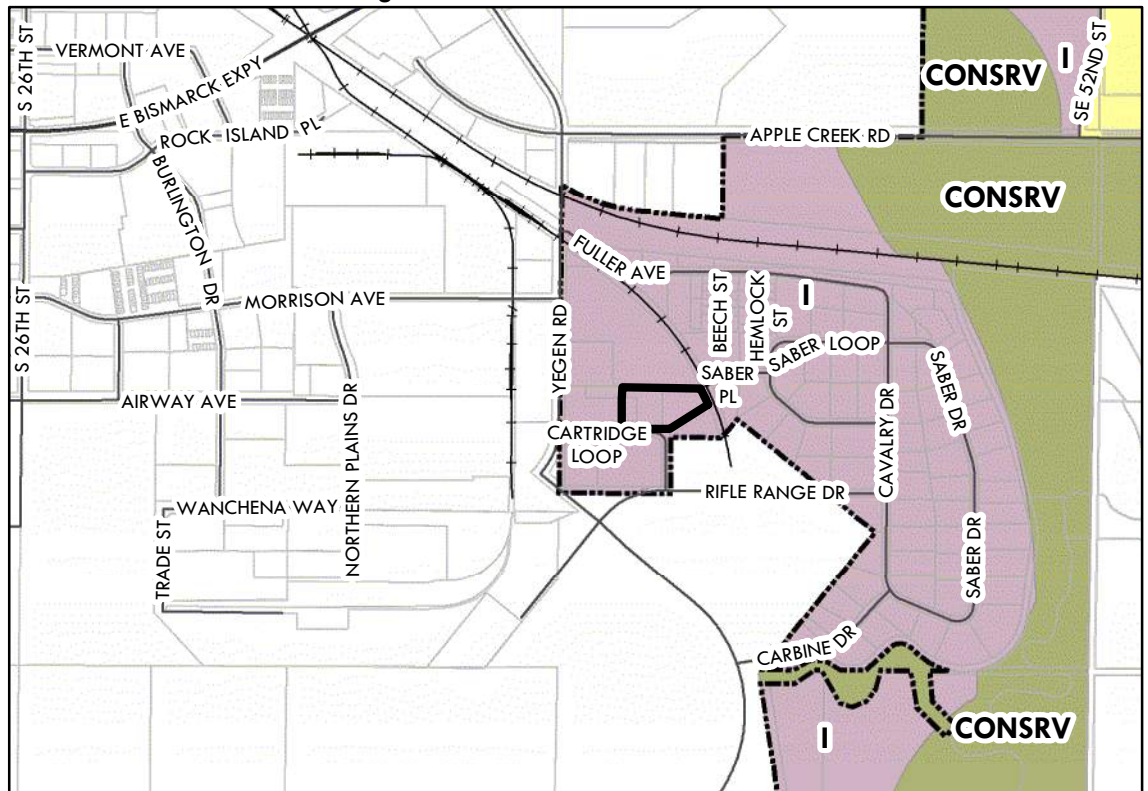
Zoning Map



Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

- ● ● Planned Arterial
- ● ● Planned Collector

0 0.275 0.55 1.1 Miles

City Limits

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck
Community Development Dept.
Planning Division
November 8, 2017



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

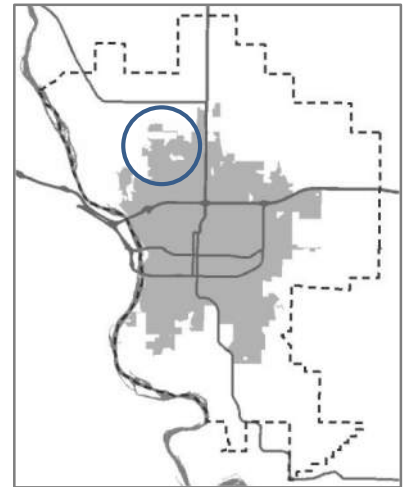
Agenda Item # 4
November 15, 2017

Application for: Zoning Change

TRAKiT Project ID: ZC2017-022

Project Summary

Title:	Part of N½ of Section 17, Hay Creek Township
Status:	Planning & Zoning Commission – Consideration
Owner(s):	William E. Clairmont Revocable Living Trust – Aud. Lots G & H Mapleton Investors, LLP – unplatted tract
Project Contact:	Lon Romsaas, PE, Swenson Hagen & Co.
Location:	The property is located in northwest Bismarck, along the west side of North Washington Street and the south side of 57 th Avenue NW (Auditor's Lots G in the NW¼ of Section 17, Auditor's Lot H in the NE¼ of Section 17, and an unplatted tract in the NW¼ of Section 17, T139N-R80W/ Hay Creek Township).
Project Size:	160 acres
Request:	Rezone property to establish zoning prior to platting and future development.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	3 unplatted tracts	Number of Lots:	3 unplatted tracts
Land Use:	Undeveloped	Land Use:	Mixed density residential, office and neighborhood commercial
Designated GMP	Low Density Residential	Designated GMP	Low Density Residential
Future Land Use:	Medium Density Residential Office/Mixed Use	Future Land Use:	Medium Density Residential Office/Mixed Use
Zoning:	A – Agricultural	Zoning:	R5 – Residential R10 – Residential RM10 – Residential RM15 – Residential RT – Residential Conditional RT – Residential Conditional CA – Commercial

Existing Conditions		Proposed Conditions	
<i>Uses Allowed:</i>	A – Agriculture	<i>Uses Allowed:</i>	R5 – Single-family residential R10 – Single and two-family residential RM10 – Multi-family residential RM15 – Multi-family residential RT – Offices and multi-family residential Conditional RT – Offices and multi-family residential Conditional CA – Neighborhood commercial
<i>Max Density Allowed:</i>	A – 1 unit / 40 acres	<i>Max Density Allowed:</i>	R5 – 5 units / acre R10 – 10 units / acre RM10 – 10 units / acre RM15 – 15 units / acre RT – 30 units / acre Conditional RT – 30 units / acre Conditional CA – 30 units / acre

Property History

<i>Zoned:</i>	N/A	<i>Platted:</i>	N/A	<i>Annexed:</i>	N/A
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Staff Analysis

William E. Clairmont Revocable Living Trust and Mapleton Investors, LLP are requesting approval of a zoning change to establish the zoning of the property prior to platting and future development. The City is currently working with the applicants on the acquisition of property in this area for stormwater management facilities.

Adjacent land uses include a mix of single-family, multi-family and undeveloped RT-Residential zoned property to the south; undeveloped property and an elementary school to the east across North Washington Street; rural residential, single-family residential, a park and a utility substation to the north across 57th Avenue NW; and undeveloped land to the west.

The proposed zoning would be consistent with the Future Land Use Plan, which identifies this area Low Density Residential with 1 to 4 units per acre; Medium Density Residential with 4 to 10 units per acre, and Office/Mixed Use.

The areas in discussions to be acquired by the City are not included in the action.

Required Findings of Fact (relating to land use)

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The Hay Creek Township Board of Supervisors has not yet made a recommendation on the proposed zoning change;
5. The proposed zoning change is justified by a change in conditions since the previous zoning

(continued)

classification was established or by an error in the zoning map;

6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing on the zoning change from the A – Agricultural zoning district to the R5 – Residential zoning district on the property identified as

Parcels 1 and 4 on the attached exhibit, to the R10 – Residential zoning district on the property identified as Parcels 2 and 9, to the RM10 – Residential zoning district for the property identified as Parcel 8, to the RM15 – Residential zoning district for the property identified as Parcel 3, to the RT – Residential zoning district for the property identified as Parcel 7, to the Conditional RT – Residential zoning district for the property identified as Parcel 5, and to the Conditional CA – Commercial zoning district for the property identified as Parcel 6 in the N½ of Section 16, T139N-R80W/Hay Creek Township, with the understanding that the property will need to be platted and annexed prior to development.

Attachments

1. Location Map
2. Zoning and Plan Reference Map
3. Zoning Exhibit with Parcels 1-9

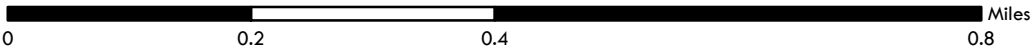
Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov



Proposed Zoning Change (A to R5, R10, RM10, RM15, RT, Conditional RT and Conditional CA)

Part of the N 1/2 of Section 17, T139N-R80W/Hay Creek Township

Trakit Project ZC2017-022
Location Map



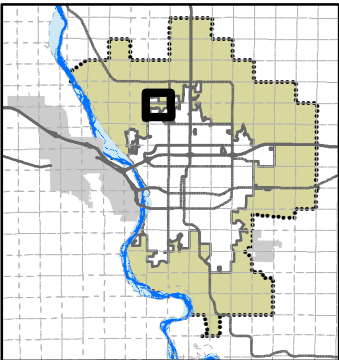
City Limits Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck
Community Development Department
Planning Division
November 8, 2017 (HLB)

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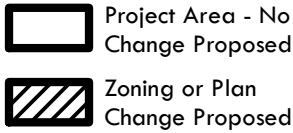




Proposed Zoning Change (A to R5, R10, RM10, RM15, RT, Conditional RT and Conditional CA)

Part of the N 1/2 of Section 17, T139N-R80W/Hay Creek Township

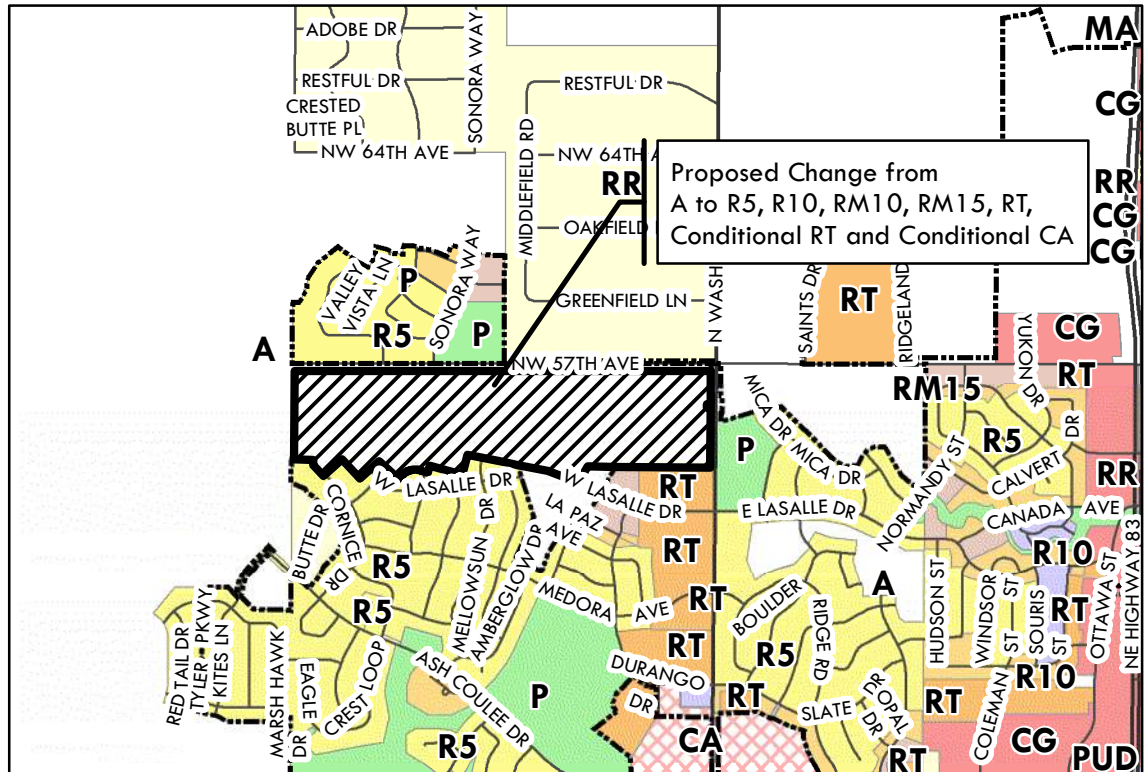
Zoning and Plan Reference Map



Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

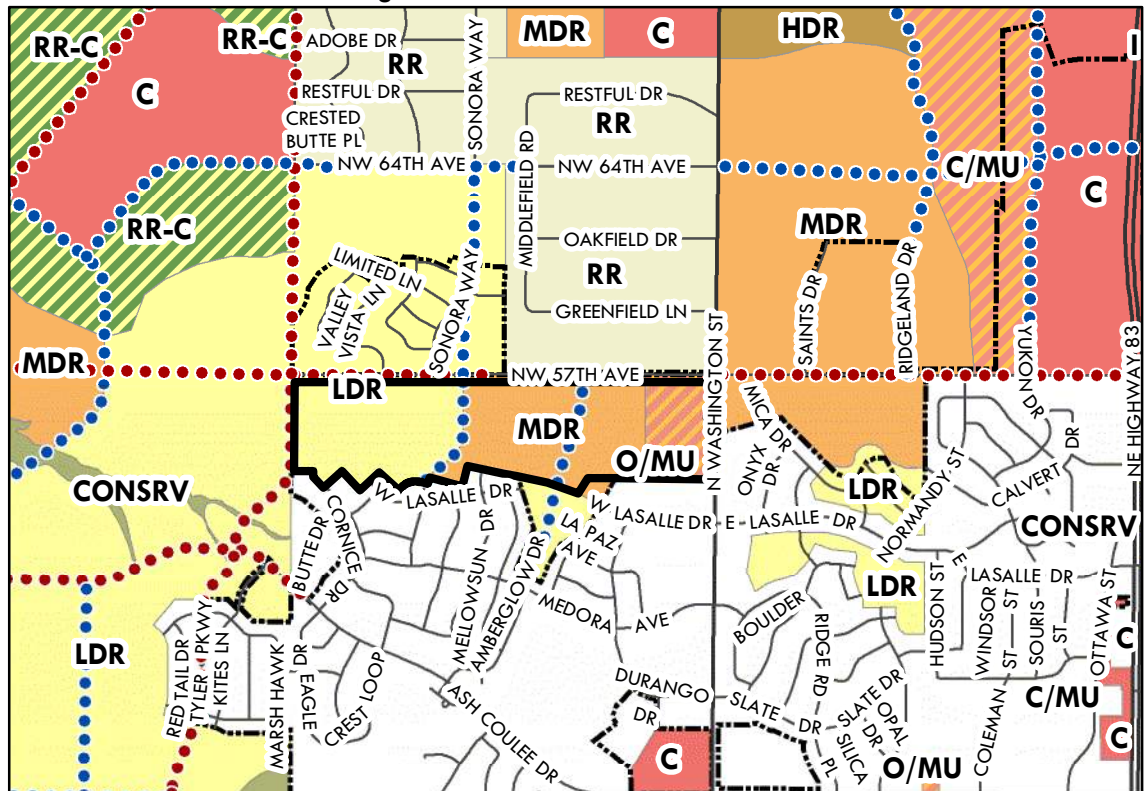
Zoning Map



Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector

0 0.375 0.75 1.5 Miles



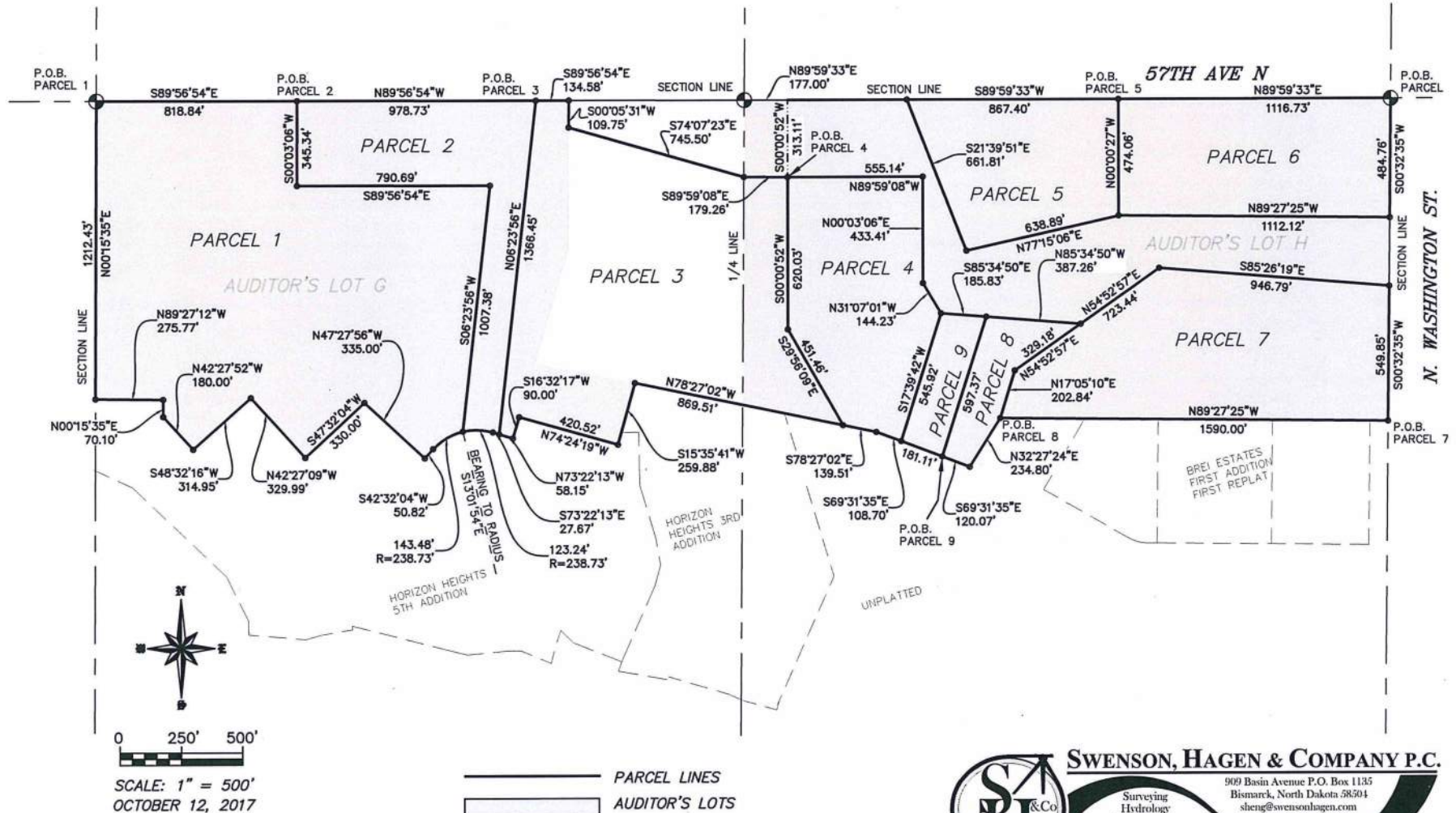
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck
Community Development Dept.
Planning Division
November 8, 2017

ZONING EXHIBIT

Section 17, Township 139 N, Range 80 W



ZONING EXHIBIT

Section 17, Township 139 N, Range 80 W

PARCEL 1 REQUESTED ZONING—R5

ALL THAT PART OF AUDITOR'S LOT G OF THE NW 1/4 OF SECTION 17, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NW CORNER OF SAID AUDITOR'S LOT G; THENCE SOUTH 89 DEGREES 56 MINUTES 54 SECONDS EAST, ALONG THE NORTHERN BOUNDARY OF SAID AUDITOR'S LOT G, A DISTANCE OF 818.84 FEET; THENCE SOUTH 00 DEGREES 03 MINUTES 06 SECONDS WEST, PERPENDICULAR TO SAID NORTHERN BOUNDARY, A DISTANCE OF 345.34 FEET; THENCE SOUTH 89 DEGREES 56 MINUTES 54 SECONDS EAST, PARALLEL WITH SAID NORTHERN BOUNDARY, A DISTANCE OF 790.69 FEET; THENCE SOUTH 06 DEGREES 23 MINUTES 56 SECONDS WEST, A DISTANCE OF 1007.38 FEET TO THE SOUTHERN BOUNDARY OF SAID AUDITOR'S LOT G; THENCE SOUTHWESTERLY AND TO THE LEFT, ALONG SAID SOUTHERN BOUNDARY, ON A 238.73 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 13 DEGREES 01 MINUTE 54 SECONDS EAST, AN ARC LENGTH OF 143.48 FEET; THENCE SOUTH 42 DEGREES 32 MINUTES 04 SECONDS WEST, CONTINUING ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 50.82 FEET; THENCE NORTH 47 DEGREES 27 MINUTES 56 SECONDS WEST, CONTINUING ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 335.00 FEET; THENCE SOUTH 47 DEGREES 32 MINUTES 04 SECONDS WEST, CONTINUING ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 330.00 FEET; THENCE NORTH 42 DEGREES 27 MINUTES 09 SECONDS WEST, CONTINUING ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 329.99 FEET; THENCE SOUTH 48 DEGREES 32 MINUTES 16 SECONDS WEST, CONTINUING ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 314.95 FEET; THENCE NORTH 42 DEGREES 27 MINUTES 52 SECONDS WEST, CONTINUING ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 180.00 FEET; THENCE NORTH 00 DEGREES 15 MINUTES 35 SECONDS EAST, CONTINUING ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 70.10 FEET; THENCE NORTH 89 DEGREES 27 MINUTES 34 SECONDS WEST, CONTINUING ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 275.77 FEET TO THE WESTERN BOUNDARY OF SAID AUDITOR'S LOT G; THENCE NORTH 00 DEGREES 15 MINUTES 35 SECONDS EAST, ALONG SAID WESTERN BOUNDARY, A DISTANCE OF 1212.43 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 1,801,773 S.F., MORE OR LESS.

PARCEL 2 REQUESTED ZONING—R10

ALL THAT PART OF AUDITOR'S LOT G OF THE NW 1/4 OF SECTION 17, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NW CORNER OF SAID AUDITOR'S LOT G; THENCE SOUTH 89 DEGREES 56 MINUTES 54 SECONDS EAST, ALONG THE NORTHERN BOUNDARY OF SAID AUDITOR'S LOT G, A DISTANCE OF 818.84 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 03 MINUTES 06 SECONDS WEST, PERPENDICULAR TO SAID NORTHERN BOUNDARY, A DISTANCE OF 345.34 FEET; THENCE SOUTH 89 DEGREES 56 MINUTES 54 SECONDS EAST, PARALLEL TO SAID NORTHERN BOUNDARY, A DISTANCE OF 790.69 FEET; THENCE SOUTH 06 DEGREES 23 MINUTES 56 SECONDS WEST, A DISTANCE OF 1007.38 FEET TO THE SOUTHERN BOUNDARY OF SAID AUDITOR'S LOT G; THENCE NORTHEASTERLY AND TO THE RIGHT, ALONG SAID SOUTHERN BOUNDARY, ON A 238.73 FOOT RADIUS CURVE, THE RADIUS OF WHICH BEARS SOUTH 13 DEGREES 01 MINUTE 54 SECONDS EAST, AN ARC LENGTH OF 123.24 FEET; THENCE SOUTH 73 DEGREES 22 MINUTES 13 SECONDS EAST, CONTINUING ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 27.67 FEET; THENCE NORTH 06 DEGREES 23 MINUTES 56 SECONDS EAST, A DISTANCE OF 1366.45 FEET TO THE NORTHERN BOUNDARY OF SAID AUDITOR'S LOT G; THENCE NORTH 89 DEGREES 56 MINUTES 54 SECONDS WEST, ALONG SAID NORTHERN BOUNDARY, A DISTANCE OF 978.73 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 480,958 S.F., MORE OR LESS.

PARCEL 3 REQUESTED ZONING—RM15

ALL THAT PART OF AUDITOR'S LOTS G & H, AND PART OF UNPLATTED PORTIONS OF THE N 1/2 OF SECTION 17, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NW CORNER OF SAID AUDITOR'S LOT G; THENCE SOUTH 89 DEGREES 56 MINUTES 54 SECONDS EAST, ALONG THE NORTHERN BOUNDARY OF SAID AUDITOR'S LOT G, A DISTANCE OF 1797.57 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 56 MINUTES 54 SECONDS EAST, ALONG SAID NORTHERN BOUNDARY, A DISTANCE OF 134.58 FEET; THENCE SOUTH 00 DEGREES 05 MINUTES 31 SECONDS WEST, A DISTANCE OF 109.75 FEET; THENCE SOUTH 74 DEGREES 07 MINUTES 23 SECONDS EAST, A DISTANCE OF 745.50 FEET TO THE WEST BOUNDARY OF SAID AUDITOR'S LOT H; THENCE SOUTH 89 DEGREES 59 MINUTES 08 SECONDS EAST, A DISTANCE OF 179.26 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 52 SECONDS WEST, A DISTANCE OF 620.03 FEET; THENCE SOUTH 29 DEGREES 56 MINUTES 09 SECONDS EAST, A DISTANCE OF 451.46 FEET TO THE SOUTHEASTERLY EXTENSION OF THE NORTHERN BOUNDARY LINE OF HORIZON HEIGHTS 3RD ADDITION; THENCE NORTH 78 DEGREES 27 MINUTES 02 SECONDS WEST, ALONG SAID SOUTHEASTERLY EXTENSION AND SAID NORTHERN BOUNDARY, A DISTANCE OF 869.51 FEET TO THE NORTHWESTERLY BOUNDARY OF HORIZON HEIGHTS 3RD ADDITION; THENCE SOUTH 15 DEGREES 35 MINUTES 41 SECONDS EAST, ALONG SAID NORTHWESTERLY BOUNDARY AND THE NORTHERN BOUNDARY OF HORIZON HEIGHTS 5TH ADDITION, A DISTANCE OF 259.88 FEET; THENCE NORTH 74 DEGREES 24 MINUTES 19 SECONDS WEST, ALONG SAID NORTHERN BOUNDARY, A DISTANCE OF 420.52 FEET; THENCE SOUTH 16 DEGREES 32 MINUTES 17 SECONDS EAST, CONTINUING ALONG SAID NORTHERN BOUNDARY, A DISTANCE OF 90.00 FEET; THENCE NORTH 73 DEGREES 22 MINUTES 13 SECONDS WEST, CONTINUING ALONG SAID NORTHERN BOUNDARY, A DISTANCE OF 58.15 FEET; THENCE NORTH 06 DEGREES 23 MINUTES 56 SECONDS EAST, A DISTANCE OF 1366.45 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 1,232,895 S.F., MORE OR LESS.

PARCEL 4 REQUESTED ZONING—R5

ALL THAT PART OF AUDITOR'S LOT H, OF THE NE 1/4 OF SECTION 17, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NW CORNER OF SAID AUDITOR'S LOT H; THENCE NORTH 89 DEGREES 59 MINUTES 33 SECONDS EAST, ALONG THE NORTHERN BOUNDARY OF SAID AUDITOR'S LOT H, A DISTANCE OF 177.00 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 52 SECONDS WEST, A DISTANCE OF 313.11 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 00 MINUTES 52 SECONDS WEST, A DISTANCE OF 620.03 FEET; THENCE SOUTH 29 DEGREES 56 MINUTES 09 SECONDS EAST, A DISTANCE OF 451.45 FEET TO THE SOUTHERN BOUNDARY OF SAID AUDITOR'S LOT H; THENCE SOUTH 78 DEGREES 27 MINUTES 02 SECONDS EAST, ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 139.51 FEET; THENCE SOUTH 69 DEGREES 31 MINUTES 35 SECONDS EAST, CONTINUING ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 108.70 FEET; THENCE NORTH 17 DEGREES 39 MINUTES 42 SECONDS EAST, A DISTANCE OF 545.92 FEET; THENCE NORTH 31 DEGREES 07 MINUTES 01 SECOND WEST, A DISTANCE OF 144.23 FEET; THENCE NORTH 00 DEGREES 03 MINUTES 06 SECONDS EAST, A DISTANCE OF 433.41 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 08 SECONDS WEST, A DISTANCE OF 555.14 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 530,078 S.F., MORE OR LESS.



SWENSON, HAGEN & COMPANY P.C.

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Land Planning
Civil Engineering
Landscape & Site Design
Construction Management

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sheng@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2606

ZONING EXHIBIT

Section 17, Township 139 N, Range 80 W

PARCEL 5 REQUESTED ZONING—CONDITIONAL RT

ALL THAT PART OF AUDITOR'S LOT H OF THE NE 1/4 OF SECTION 17, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NE CORNER OF AUDITOR'S LOT H; THENCE SOUTH 89 DEGREES 59 MINUTES 33 SECONDS WEST, ALONG THE NORTHERN BOUNDARY OF SAID AUDITOR'S LOT H, A DISTANCE OF 1116.73 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 59 MINUTES 33 SECONDS WEST, CONTINUING ALONG SAID NORTHERN BOUNDARY, A DISTANCE OF 867.40 FEET; THENCE SOUTH 21 DEGREES 39 MINUTES 51 SECONDS EAST, A DISTANCE OF 661.81 FEET; THENCE NORTH 77 DEGREES 15 MINUTES 06 SECONDS EAST, A DISTANCE OF 638.89 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 27 SECONDS WEST, A DISTANCE OF 474.06 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 414,516 S.F., MORE OR LESS.

PARCEL 6 REQUESTED ZONING—CONDITIONAL CA

ALL THAT PART OF AUDITOR'S LOT H OF THE NE 1/4 OF SECTION 17, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NE CORNER OF SAID AUDITOR'S LOT H; THENCE SOUTH 00 DEGREES 32 MINUTES 35 SECONDS WEST, ALONG THE EASTERN BOUNDARY OF SAID AUDITOR'S LOT H, A DISTANCE OF 484.76 FEET; THENCE NORTH 89 DEGREES 27 MINUTES 25 SECONDS WEST, A DISTANCE OF 1112.12 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 27 SECONDS WEST, A DISTANCE OF 474.06 FEET TO THE NORTHERN BOUNDARY OF SAID AUDITOR'S LOT H; THENCE NORTH 89 DEGREES 59 MINUTES 33 SECONDS EAST, ALONG SAID NORTHERN BOUNDARY, A DISTANCE OF 1116.73 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 534,254 S.F., MORE OR LESS.

PARCEL 7 REQUESTED ZONING—RT

ALL THAT PART OF AUDITOR'S LOT H OF THE NE 1/4 OF SECTION 17, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SE CORNER OF SAID AUDITOR'S LOT H; THENCE NORTH 89 DEGREES 27 MINUTES 25 SECONDS WEST, ALONG THE SOUTHERN BOUNDARY OF SAID AUDITOR'S LOT H, A DISTANCE OF 1590.00 FEET; THENCE NORTH 17 DEGREES 05 MINUTES 10 SECONDS EAST, A DISTANCE OF 202.84 FEET; THENCE NORTH 54 DEGREES 52 MINUTES 57 SECONDS EAST, A DISTANCE OF 723.44 FEET; THENCE SOUTH 85 DEGREES 26 MINUTES 19 SECONDS EAST, A DISTANCE OF 946.79 FEET TO THE EASTERN BOUNDARY OF SAID AUDITOR'S LOT H; THENCE SOUTH 00 DEGREES 32 MINUTES 35 SECONDS WEST, ALONG SAID EASTERN BOUNDARY, A DISTANCE OF 549.85 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 794,491 S.F., MORE OR LESS.

PARCEL 8 REQUESTED ZONING—RM10

ALL THAT PART OF AUDITOR'S LOT H, OF THE NE 1/4 OF SECTION 17, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SE CORNER OF SAID AUDITOR'S LOT H; THENCE NORTH 89 DEGREES 27 MINUTES 25 SECONDS WEST, ALONG THE SOUTHERN BOUNDARY OF SAID AUDITOR'S LOT H, A DISTANCE OF 1590.00 FEET TO THE POINT OF BEGINNING; THENCE NORTH 17 DEGREES 05 MINUTES 10 SECONDS EAST, A DISTANCE OF 202.84 FEET; THENCE NORTH 54 DEGREES 52 MINUTES 57 SECONDS EAST, A DISTANCE OF 329.18 FEET; THENCE NORTH 85 DEGREES 34 MINUTES 50 SECONDS WEST, A DISTANCE OF 387.26 FEET; THENCE SOUTH 17 DEGREES 39 MINUTES 42 SECONDS WEST, A DISTANCE OF 597.37 FEET TO THE SOUTHERN BOUNDARY OF SAID AUDITOR'S LOT H; THENCE SOUTH 69 DEGREES 31 MINUTES 35 SECONDS EAST, ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 120.07 FEET; THENCE NORTH 32 DEGREES 27 MINUTES 24 SECONDS EAST, CONTINUING ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 234.80 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 125,953 S.F., MORE OR LESS.

PARCEL 9 REQUESTED ZONING—R10

ALL THAT PART OF AUDITOR'S LOT H, OF THE NE 1/4 OF SECTION 17, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHERNMOST POINT OF SAID AUDITOR'S LOT H; THENCE NORTH 69 DEGREES 31 MINUTES 35 SECONDS WEST, ALONG THE SOUTHERN BOUNDARY OF SAID AUDITOR'S LOT H, A DISTANCE OF 120.07 FEET TO THE POINT OF BEGINNING; THENCE NORTH 69 DEGREES 31 MINUTES 35 SECONDS WEST, CONTINUING ALONG SAID SOUTHERN BOUNDARY, A DISTANCE OF 181.11 FEET; THENCE NORTH 17 DEGREES 39 MINUTES 42 SECONDS EAST, A DISTANCE OF 545.92 FEET; THENCE SOUTH 85 DEGREES 34 MINUTES 50 SECONDS EAST, A DISTANCE OF 185.83 FEET; THENCE SOUTH 17 DEGREES 39 MINUTES 42 SECONDS WEST, A DISTANCE OF 597.37 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 530,078 S.F., MORE OR LESS.



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STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

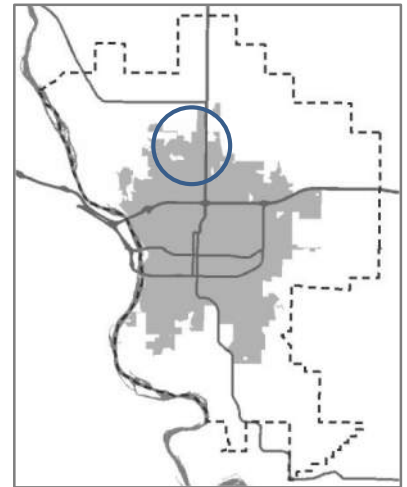
Agenda Item # 5
November 15, 2017

Application for: Zoning Change

TRAKiT Project ID: ZC2017-023

Project Summary

Title:	Part of the NW ¹ / ₄ of Section 16, Hay Creek Township
Status:	Planning & Zoning Commission – Consideration
Owner(s):	Five Guys Investment, LLP
Project Contact:	Lon Romsaas, PE, Swenson Hagen & Co.
Location:	The property is located in northwest Bismarck, along the east side of North Washington Street and the south side of 57 th Avenue NE (part of the NW ¹ / ₄ of Section 16, T139N-R80W/ Hay Creek Township).
Project Size:	47.71 acres
Request:	Rezone property to establish the desired zoning districts prior to platting.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	1 unplatted tract	Number of Lots:	1 unplatted tract
Land Use:	Undeveloped	Land Use:	Mixed density residential, office and neighborhood commercial
Designated GMP Future Land Use:	Medium Density Residential	Designated GMP Future Land Use:	Medium Density Residential
Zoning:	A – Agricultural	Zoning:	R5 – Residential RM15 – Residential RT – Residential Conditional CA – Commercial
Uses Allowed:	A – Agriculture	Uses Allowed:	R5 – Single-family residential RM15 – Multi-family residential RT – Offices and multi-family residential Conditional CA – Neighborhood commercial
Max Density Allowed:	A – 1 unit / 40 acres	Max Density Allowed:	R5 – 5 units / acre RM15 – 15 units / acre RT – 30 units / acre Conditional CA – 30 units / acre

(continued)

Property History

Zoned:	N/A	Platted:	N/A	Annexed:	N/A
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Staff Analysis

Five Guys Investment, LLP is requesting approval of a zoning change to establish the zoning of the property prior to platting. The City is currently working with the applicant on the acquisition of property in this area for stormwater management facilities.

Adjacent land uses include single family residential and an elementary school to the south, a combination of low and medium density residential to the east, the future location of St. Mary's Central High School and undeveloped property to the north, and undeveloped property to the west.

The proposed zoning would be consistent with the Future Land Use Plan, which identifies this development block as Medium Density Residential, with residential densities ranging from 4 to 10 units per acre.

The areas in discussions to be acquired by the City are not included in the action.

Required Findings of Fact (relating to land use)

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The Hay Creek Township Board of Supervisors has not yet made a recommendation on the proposed zoning change;

5. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing on the zoning change from the A – Agricultural zoning district to the R5 – Residential zoning district on the property identified on the attached exhibit as Parcel 4, to the RM15 – Residential zoning district for the property identified as Parcel 3, to the RT – Residential zoning district for the property identified as Parcel 2, and to the Conditional CA – Commercial zoning district for the property identified as Parcel 1 in the NW¼ of Section 16, T139N-R80W/Hay Creek Township, with the understanding that the property will need to be platted and annexed prior to development.

Attachments

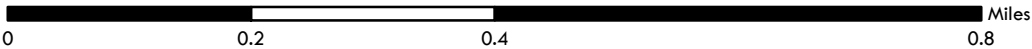
1. Location Map
2. Zoning and Plan Reference Map
3. Zoning Exhibit with Parcels 1-4



**Proposed Zoning Change (A to R5, RM15, RT
and Conditional CA)**

Part of the NW1/4 of Section 16, T139N-R80W/Hay Creek Township

Trakit Project ZC2017-023
Location Map

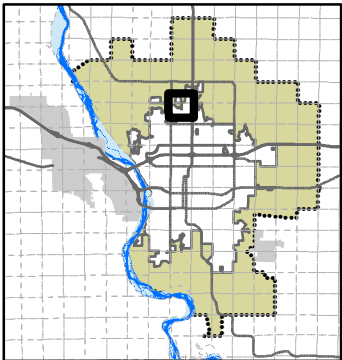


City Limits



Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
October 17, 2017 (HLB)

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Proposed Zoning Change (A to R5, RM15, RT & Conditional CA)

Zoning and Plan
Reference Map

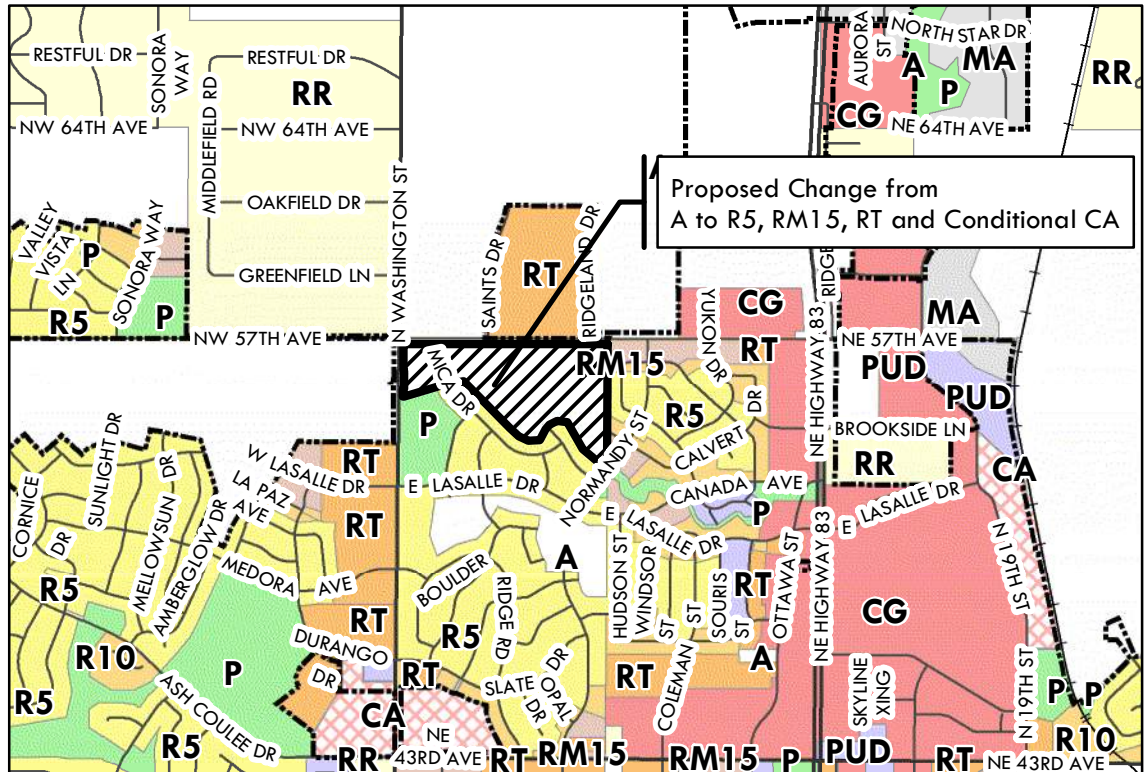
Part of the NW 1/4 of Section 16, T139N-R80W/Hay Creek Township

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

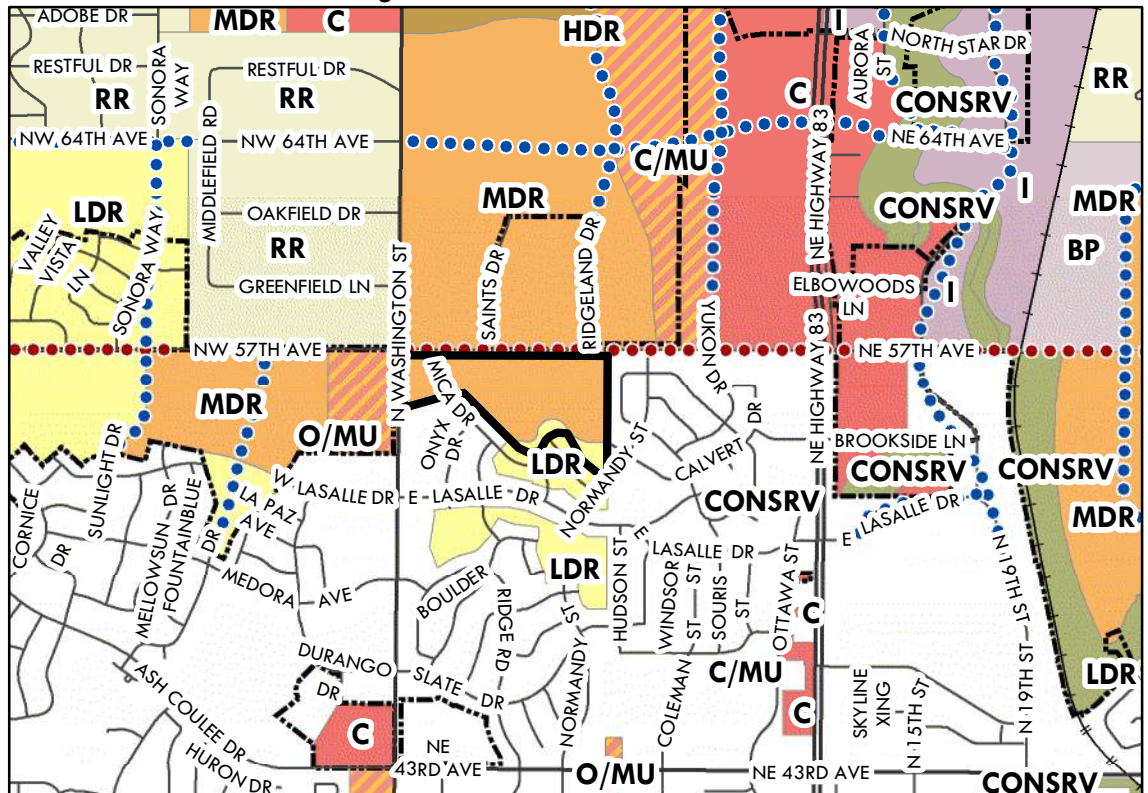
Zoning Map



Future Land Use Plan and Fringe Area Road Master Plan

Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve



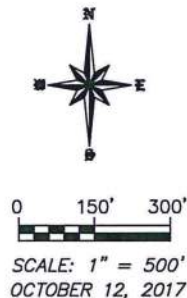
Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector

City Limits

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City of Bismarck
Community Development Dept.
Planning Division
November 8, 2017

Section 16, Township 139 N, Range 80 W

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ZONING EXHIBIT

Section 16, Township 139 N, Range 80 W

PARCEL 1 REQUESTED ZONING-CONDITIONAL CA

ALL THAT PART OF THE NW 1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID NW 1/4; THENCE SOUTH 89 DEGREES 54 MINUTES 06 SECONDS EAST, ALONG THE NORTH LINE OF SAID NW 1/4, A DISTANCE OF 60.00 FEET; THENCE SOUTH 00 DEGREES 32 MINUTES 25 SECONDS WEST, PARALLEL WITH THE WEST LINE OF SAID NW 1/4, A DISTANCE OF 75.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 54 MINUTES 06 SECONDS EAST, PARALLEL WITH THE NORTH LINE OF SAID NW 1/4, A DISTANCE OF 504.57 FEET TO THE WEST LINE OF STORM SEWER, SANITARY SEWER, & WATERMAIN EASEMENT DOC. #785979; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 65.18 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, ON A 1033.00 FOOT RADIUS CURVE, CONTINUING ALONG SAID WEST LINE, AN ARC LENGTH OF 34.28 FEET; THENCE SOUTH 89 DEGREES 38 MINUTES 48 SECONDS WEST, A DISTANCE OF 114.42 FEET; THENCE SOUTH 46 DEGREES 24 MINUTES 15 SECONDS WEST, A DISTANCE OF 144.80 FEET; THENCE SOUTH 89 DEGREES 56 MINUTES 36 SECONDS WEST, A DISTANCE OF 150.31 FEET; THENCE SOUTH 56 DEGREES 29 MINUTES 28 SECONDS WEST, A DISTANCE OF 165.86 FEET TO THE EAST LINE OF TOWNSHIP ROAD EASEMENT DOC. #468826; THENCE NORTH 00 DEGREES 32 MINUTES 25 SECONDS EAST, ALONG SAID EAST LINE AND PARALLEL WITH THE WEST LINE OF SAID NW 1/4, A DISTANCE OF 292.60 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 91,011 S.F., MORE OR LESS.

PARCEL 2 REQUESTED ZONING-RT

ALL THAT PART OF THE NW 1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 1 BLOCK 10 BOULDER RIDGE 5TH ADDITION; THENCE NORTH 07 DEGREES 00 MINUTES 05 SECONDS WEST, ALONG THE EAST LINE OF STORM SEWER, SANITARY SEWER & WATERMAIN EASEMENT DOC #785979, A DISTANCE OF 248.97 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 68 DEGREES 40 MINUTES 52 SECONDS EAST, A DISTANCE OF 218.11 FEET; THENCE NORTH 71 DEGREES 19 MINUTES 35 SECONDS EAST, A DISTANCE OF 192.86 FEET; THENCE SOUTH 57 DEGREES 58 MINUTES 32 SECONDS EAST, A DISTANCE OF 111.93 FEET; THENCE NORTH 00 DEGREES 04 MINUTES 13 SECONDS EAST, A DISTANCE OF 319.11 FEET TO THE SOUTH LINE OF 75' HIGHWAY RIGHT OF WAY EASEMENT DOC. #776044; THENCE NORTH 89 DEGREES 54 MINUTES 06 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 495.77 FEET TO THE EAST LINE OF STORM SEWER, SANITARY SEWER & WATERMAIN EASEMENT DOC. #785979; THENCE SOUTH 00 DEGREES 00 MINUTES 12 SECONDS EAST, ALONG SAID EAST LINE, A DISTANCE OF 65.06 FEET; THENCE SOUTHEASTERLY AND TO THE LEFT, CONTINUING ALONG SAID EAST LINE, ON A 967.00 FOOT RADIUS CURVE, AN ARC LENGTH OF 118.14 FEET; THENCE SOUTH 07 DEGREES 00 MINUTES 04 SECONDS EAST, CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 60.60 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 140,702 S.F., MORE OR LESS.

PARCEL 3 REQUESTED ZONING-RM15

ALL THAT PART OF THE NW 1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NW 1/4; THENCE SOUTH 00 DEGREES 24 MINUTES 58 SECONDS WEST, ALONG THE EAST LINE OF SAID NW 1/4, A DISTANCE OF 75.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 24 MINUTES 58 SECONDS WEST, CONTINUING ALONG SAID EAST LINE, A DISTANCE OF 418.25 FEET; THENCE NORTH 89 DEGREES 23 MINUTES 54 SECONDS WEST, A DISTANCE OF 138.90 FEET; THENCE NORTH 53 DEGREES 51 MINUTES 58 SECONDS WEST, A DISTANCE OF 140.71 FEET; THENCE NORTH 75 DEGREES 57 MINUTES 06 SECONDS WEST, A DISTANCE OF 140.95 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 225.86 FEET; THENCE SOUTH 79 DEGREES 16 MINUTES 26 SECONDS WEST, A DISTANCE OF 273.85 FEET; THENCE NORTH 69 DEGREES 27 MINUTES 15 SECONDS WEST, A DISTANCE OF 315.65 FEET; THENCE SOUTH 76 DEGREES 33 MINUTES 53 SECONDS WEST, A DISTANCE OF 330.42 FEET; THENCE NORTH 00 DEGREES 04 MINUTES 13 SECONDS EAST, A DISTANCE OF 319.11 FEET TO THE SOUTH LINE OF 75' HIGHWAY RIGHT OF WAY EASEMENT DOC. #776044; THENCE SOUTH 89 DEGREES 54 MINUTES 06 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 1502.43 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 477,662 S.F., MORE OR LESS.

PARCEL 4 REQUESTED ZONING-R5

ALL THAT PART OF THE NW 1/4 OF SECTION 16, TOWNSHIP 139 NORTH, RANGE 80 WEST, BISMARCK, NORTH DAKOTA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1 BLOCK 10 BOULDER RIDGE FIFTH ADDITION; THENCE NORTH 82 DEGREES 59 MINUTES 40 SECONDS EAST, ALONG THE BOUNDARY OF BOULDER RIDGE FIFTH ADDITION, A DISTANCE OF 145.42 FEET; THENCE SOUTH 44 DEGREES 59 MINUTES 59 SECONDS EAST, ALONG SAID BOUNDARY, AND THE BOUNDARY OF BOULDER RIDGE SIXTH ADDITION, A DISTANCE OF 973.32 FEET; THENCE SOUTH 65 DEGREES 28 MINUTES 11 SECONDS EAST, ALONG THE BOUNDARY OF BOULDER RIDGE SIXTH ADDITION, A DISTANCE OF 137.93 FEET; THENCE NORTH 84 DEGREES 19 MINUTES 05 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 139.90 FEET; THENCE NORTH 30 DEGREES 00 MINUTES 04 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 158.23 FEET; THENCE NORTH 39 DEGREES 54 MINUTES 45 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 65.89 FEET; THENCE NORTH 65 DEGREES 00 MINUTES 19 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 111.43 FEET; THENCE SOUTH 85 DEGREES 17 MINUTES 24 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 123.19 FEET; THENCE SOUTH 30 DEGREES 00 MINUTES 02 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 394.28 FEET; THENCE SOUTH 50 DEGREES 00 MINUTES 00 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 395.14 FEET TO THE EAST LINE OF SAID NW 1/4; THENCE NORTH 00 DEGREES 24 MINUTES 07 SECONDS, ALONG SAID EAST LINE, A DISTANCE OF 1153.40 FEET; THENCE NORTH 89 DEGREES 23 MINUTES 54 SECONDS WEST, A DISTANCE OF 140.71 FEET; THENCE NORTH 53 DEGREES 51 MINUTES 58 SECONDS WEST, A DISTANCE OF 140.71 FEET; THENCE NORTH 75 DEGREES 57 MINUTES 06 SECONDS WEST, A DISTANCE OF 140.95 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 225.86 FEET; THENCE SOUTH 79 DEGREES 16 MINUTES 26 SECONDS WEST, A DISTANCE OF 273.85 FEET; THENCE NORTH 69 DEGREES 27 MINUTES 15 SECONDS WEST, A DISTANCE OF 315.65 FEET; THENCE SOUTH 76 DEGREES 33 MINUTES 53 SECONDS WEST, A DISTANCE OF 330.42 FEET; THENCE NORTH 57 DEGREES 58 MINUTES 32 SECONDS WEST, A DISTANCE OF 111.93 FEET; THENCE SOUTH 71 DEGREES 19 MINUTES 35 SECONDS WEST, A DISTANCE OF 192.86 FEET; THENCE NORTH 68 DEGREES 40 MINUTES 52 SECONDS WEST, A DISTANCE OF 218.11 FEET TO THE EAST LINE OF STORM SEWER, SANITARY SEWER & WATERMAIN EASEMENT DOC. #785979; THENCE SOUTH 07 DEGREES 00 MINUTES 05 SECONDS EAST, ALONG SAID EAST LINE, A DISTANCE OF 248.97 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 1,368,797 S.F., MORE OR LESS.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 6
November 15, 2017

Project Summary

Title:	Growth Management Plan Amendment – Urban Service Area Boundary (USAB) & Phasing Plan
Status:	Planning & Zoning Commission – Consideration
Project Contact:	Daniel Nairn, AICP, Planner
Request:	Modify Urban Service Area Boundary (USAB) and Phasing Plan sections of the 2014 Growth Management Plan to reduce number of phases from three (3) to two (2) and better define priority service areas from the remainder of the USAB.

Staff Analysis

The Urban Service Area Boundary (USAB) functions as the area of anticipated growth outside of city limits, where urban services may feasibly be provided at some point in the future. The USAB is determined by a number of factors, which include:

- The ease or difficulty of providing urban services such as sewer, water, and roadway access.
- Watershed boundaries and other environmental features of the land.
- Estimated development patterns and anticipated demand for residential, commercial, and industrial land uses.

History of USAB in Bismarck

One of the major initiatives of the 2003 Growth Management Plan (GMP) was to create and adopt an Urban Service Area Boundary (USAB). The USAB was designed to include those areas within the extraterritorial area that could be reasonably served by municipal utilities within a 10- to 15-year timeframe. The 2003 GMP also recommended that the USAB be reviewed on a regular basis and updated as needed to reflect annexations, new facilities, updated master plans, the capital improvements program (CIP) and changes in development trends. The USAB established in 2003 was modified in 2006 and again in 2012.

The 2014 Growth Management Plan incorporated the USAB within the document and modified the 2012 version to remove areas that were below the ridge on the east side of River Road north of Burnt Boat Drive and those areas that were removed from the City's extraterritorial area by the ne

gotiated agreement with Burleigh County. The 2014 GMP also included a Phasing Plan with three (3) phases to accommodate growth based on the aggressive growth scenario that was projected at the time.

Neither the USAB nor the Phasing Plan has been modified since the adoption of the 2014 GMP.

Proposed Amendments to USAB

Staff is pursuing amendments to the 2014 GMP to reflect a changing perspective on city growth. Concerns with the public costs associated with extending municipal services in well advance of development is leading toward a greater preference for contiguous growth that is easier to serve.

Planning staff has worked with representatives from City Administration, Engineering and Public Works on the development of an updated USAB map and Phasing Plan language that narrows the three (3) phases in the current Phasing Plan down to two (2): USAB Priority and USAB Future.

The USAB Priority establishes areas that are anticipated for development in the short-term because

(continued)

city services may be readily accessed, based on available funding. The USAB Future establishes areas that are anticipated for development in the long-term, with immediate City participation in extending services is unlikely and limited. However, development in these areas may be possible with private funding for infrastructure.

The proposed amendments also remove already-developed Rural Residential areas from the Phasing Plan. The expectation is that these areas will remain in their current rural residential state as the city grows.

Ongoing Process for Evaluation

The intent is to review the USAB map on an annual basis and modify any boundaries as needed, based on the growth of the community, the availability of services that could be readily extended, modifications to the project capacity of the respective areas, and any other relevant changes.

As USAB Priority areas develop, the USAB Priority boundary may be expanding during the annual review process.

Required Findings of Fact (relating to land use)

1. The proposed GMP amendment would not adversely affect the public health, safety or general welfare;
2. The proposed GMP amendment is justified by a change in conditions since the GMP was adopted in 2014;
3. The proposed amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends scheduling a public hearing for the proposed amendment to the Urban Service Area Boundary (USAB) and Phasing Plan sections of the 2014 Growth Management Plan.

Attachments

1. Proposed amendments to Phasing Plan narrative
2. Proposed amendments to USAB

Staff report prepared by: Daniel Nairn, AICP, Planner
701-355-1854 | dnairn@bismarcknd.gov

Phasing Plan

The Phasing Plan in Figure 11, as amended, illustrates the proposed timing of development in the study area, and the progression of provision of urban services. Three progressive phasing bands Two areas compose the Phasing Plan: Urban Service Priority and Urban Service Future. Considerations in the definition of the phases are:

- Anticipated timing of when substantial development of different areas outside the current city limits is expected to occur.
- Level of support for using enhanced public infrastructure funding mechanisms to provide urban infrastructure, including roads, water, sanitary sewer and storm sewer.
- Mix of land uses assumed to be implemented in the area form a balanced mix of uses, from residential to commercial and industrial in areas more contiguous to the existing city limits to primarily single family residential in areas farther away from the current city limits.

Phase 1: Urban Service Priority

Development in the short term, from the present through approximately 2025, is anticipated to occur in this phase. These areas are located within the USAB and are adjacent to the current corporate limits and in locations where existing infrastructure can readily be extended. This area contains sufficient space for the full range of land uses to be accommodated even under the Aggressive Growth Scenario, with balanced distribution across the study area and a slight emphasis away from the currently developing northwest quadrant to achieve balanced growth. These areas can be supported by existing arterials and fall within the current USAB. Enhanced infrastructure funding would be promoted within this zone to aid in directing growth to these areas. Any City participation in the funding of infrastructure in the Urban Service Priority area will be based on available funding and must be identified in advance of proposed development for inclusion in the City's annual budgeting process.

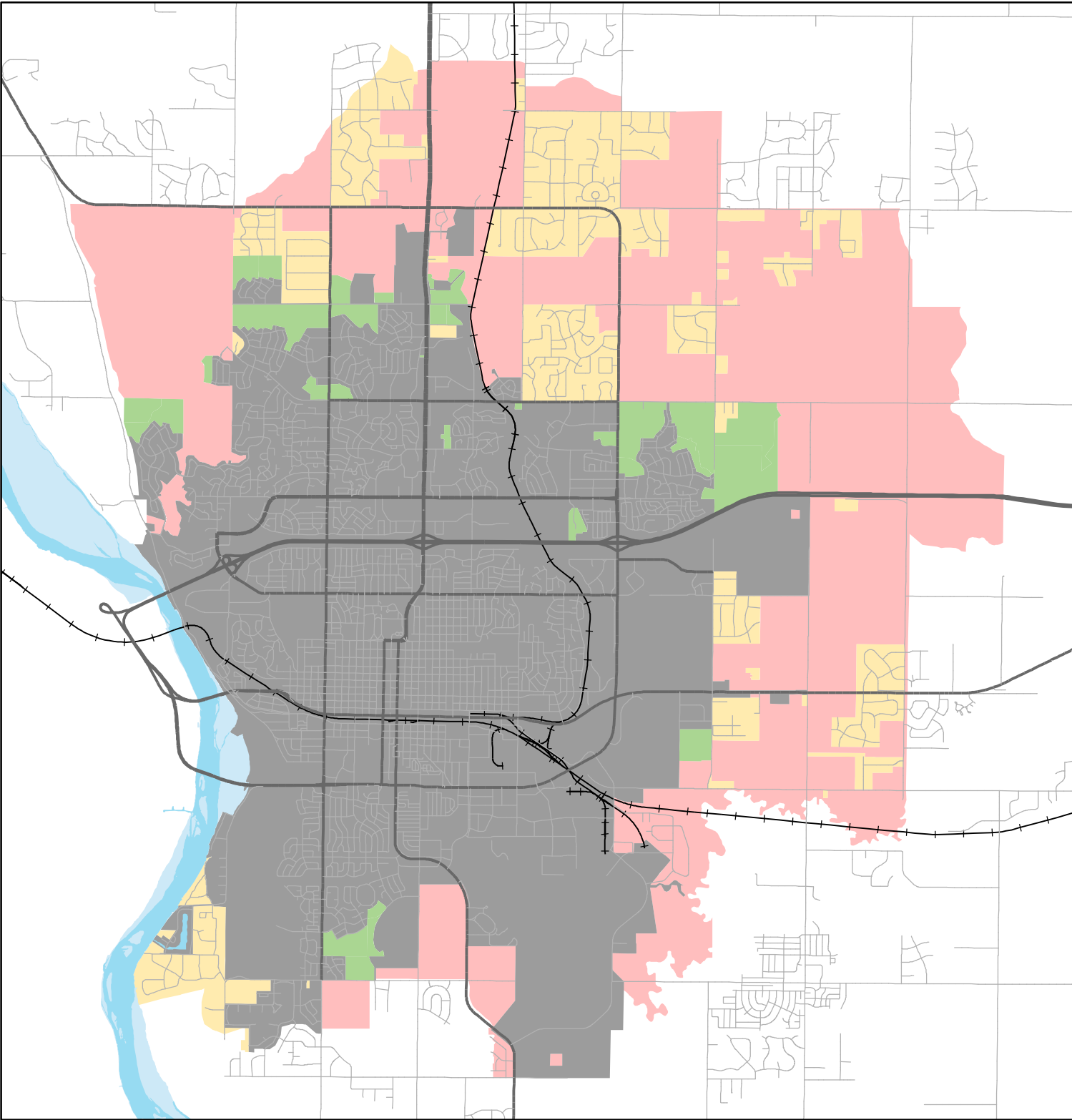
Phase 2: Urban Service Secondary Future

Development over the long term, from 2025 through 2040, is anticipated to occur in this area, after substantial utilization of previously annexed areas and the Phase 1 Urban Service Priority area. These areas are within the USAB, but are outside of areas where development would be encouraged until development occurs within the Urban Service Priority area. This phase area contains sufficient space to accommodate the full range of land uses out to 2040 expected in the future. If land owners wish to develop property in this area prior to 2025, they would need to arrange private financing for the public infrastructure costs to extend municipal services out to these sites; infrastructure costs will naturally be higher if serving scattershot developments instead of contiguous, orderly development. The outer boundaries of this area are contiguous with the current USAB.

Phase 3: Urban Service Future

This phase is characterized as the urban fringe, but with contiguity envisioned with planned urbanized areas, over the very long term (post 2040). These areas are within the USAB, but are well outside of areas where development would be encouraged over the next 20 years. The outer boundaries of this

area are contiguous with the current USAB. Rural residential is mainly envisioned here, utilizing transitional platting or a modified transitional platting approach in support of ultimately achieving urban densities.



Urban Service Area Boundary (USAB)

Priority - Development anticipated in the short-term because city services may be readily accessed, as funding is available.

Future - Development anticipated in the long-term and immediate City participation in extending services is unlikely. Development may occur with private funding of infrastructure costs.

Annexed

Rural Residential

04,1258,25012,500 Feet

N

This map is for reference purpose only and is not intended as a survey or accurate representation of all map features.



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 7
November 15, 2017

Application for: Annexation

Zoning Change

Major Subdivision Final Plat

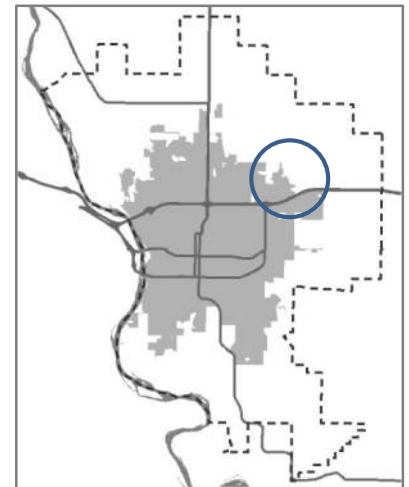
TRAKiT Project ID: ANN2017-004

ZC2017-017

PPLT2017-006

Project Summary

Title:	Sattler's Sunrise Tenth Addition
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Sattler Family, LLLP Bismarck Parks and Recreation District
Project Contact:	Jason Petryszyn, PE Swenson, Hagen & Co.
Location:	In northeast Bismarck, north of East Century Avenue and east of Roosevelt Drive. (a replat of part of Lot 25, Block 1, Sattler's Sunrise 9th Addition and part of the E1/2 of Section 24, T139N-R80W/Hay Creek Township)
Project Size:	32.3 acres
Request:	Plat, rezone, and annex property for residential development.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	Undeveloped	Number of Lots:	80 Lots in 10 blocks
Land Use:	Vacant Land	Land Use:	Single-family and two-family residential
Designated GMP	Low Density Residential	Designated GMP	Low Density Residential
Future Land Use:	Medium Density Residential	Future Land Use:	Medium Density Residential
Zoning:	A – Agricultural P – Public Use	Zoning:	R5 – Residential R10 – Residential P – Public Use
Uses Allowed:	A – Agriculture P – Parks, open space, stormwater facilities, and other public uses	Uses Allowed:	R5 – Single-family residential R10 – Single and two-family residential P – Parks, open space, stormwater facilities, and other public uses
Max Density Allowed:	A – 1 unit / 40 acres P – N/A	Max Density Allowed:	R5 – 5 units / acre R10 – 10 units / acre P – N/A

(continued)

Property History

Zoned:	N/A	Platted:	N/A	Annexed:	N/A
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Staff Analysis

The Planning and Zoning Commission tentatively approved the preliminary plat for Sattler's Sunrise Tenth Addition at their meeting of September 27, 2017.

Sattler Family, LLLP is requesting approval of a final plat titled Sattler's Sunrise Tenth Addition and a zoning change from the A – Agricultural and P – Public zoning districts to the R5 – Residential, R10 – Residential, and P – Public zoning districts for unannexed lands in the east half of Section 24, T139N-R80W/Hay Creek Township. The purpose of the request is to develop single-family and two-family homes.

The applicant is also requesting approval of an annexation of the northern portion of this plat, consisting of 42 lots in 6 blocks. A map showing the area proposed for annexation is attached to this report. This would be the first phase of the plat to develop.

Concurrence with Comprehensive Plan

According to the Future Land Use Plan (FLUP) in the 2014 Growth Management Plan, as amended, the area proposed for development is designated Medium Density Residential (MDR), with the exception of a small area designated Low Density Residential (LDR). The MDR classification includes densities ranging from 4 to 10 units per acre, and allows a mix of single-family residential, two-family residential, and potentially limited multifamily residential.

The MDR portion of the plat includes 52 dwelling units on 20.78 acres of land, which results in a gross density of 2.5 dwelling units per acre. This level of density is insufficient according to what the FLUP calls for. However, the applicant has submitted a master plan for the entire section that shows additional areas proposed for higher-density residences. Taken as a whole, the

development would meet the definition of the MDR land use classification.

The 2014 Fringe Area Road Master Plan designated the extension of Calgary Avenue to the east as a future collector roadway. The proposed plat includes this roadway alignment with a sufficient width, and thus meets the intent of this plan.

Right of Way and Streets

Section 14-09-05 of the City Code of Ordinances requires a 66-foot right-of-way for all local residential streets, and the ordinance specifies that all curbs should be a standard form, with a sheer vertical face, instead of mountable. However, the ordinance also grants the City Engineer the authority to waive the requirements for good cause, in particular if mountable curb was used in previous phases of a development, which he has done in this case.

The submitted final plat shows 60-foot rights-of-way for all local roads south of East Calgary Avenue, and 66-foot rights-of-way north of East Calgary Avenue. The developer intends to use mountable curb on southern portion and standard curb on the northern portion.

The reason for this distinction is that earlier phases of Sattler's Sunrise used the narrower right-of-way and mountable curb. Therefore, the areas south of East Calgary may continue in the same pattern. The areas north of East Calgary Avenue will follow the current city standards for local roadways.

The City has taken a position in favor of standard curb over mountable curb in regards to better water flow, reduced clogging of stormwater inlets, less erosion potential, and more effective snow plowing operations, among other reasons. The 66-foot right-of-way allows sufficient room in a boulevard for snow storage and healthy tree plantings.

The local street Tyndale Drive extends approximately 840 feet beyond the intersection with Meigs Drive.

(continued)

Because of this distance, a temporary turn-around easement has been shown on the plat. Eventually, the master plan shows this street continuing and looping back onto Tyndale Drive. The turn-around may be removed once this road connection is built in future phases.

Orderly Development Policy

The City Commission adopted a policy in 2015 to encourage orderly development by requiring any dedication of right-of-way or easement necessary to develop adjacent properties during the development review process. The property owner has already dedicated easements for City water and sanitary sewer through the property being platted to serve adjoining property in different ownership to the north east. City staff considers this sufficient action to satisfy the requirements of this policy.

Park and Pathways

Sattler's Sunrise Tenth Addition is subject to the Neighborhood Parks and Open Space Policy, as an urban, residential development. The applicant has requested a waiver from this policy, and the Bismarck Parks and Recreation District Board granted this request on August 17, 2017, because the entire new development is already within walking distance of the existing Sunrise Neighborhood Park.

The Bismarck Parks and Recreation District is an owner of land within this plat and therefore must sign the plat prior to recording. A portion of Lot 25, Block 1, Sattler's Ninth Addition is included within this plat for the purpose of widening the drainage area. This area, now replatted as Lot 12, Block 3, would provide a drainage function, as well as a multiuse pathway through the development. The pathway would continue through Lot 2, Block 4 which is reserved for a stormwater detention area.

Required Findings of Fact (relating to land use)

Zoning Change

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;

2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Final Plat

1. All technical requirements for approval of a final plat have been met;
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission;
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
4. The stormwater management plan for the subdivision has not been approved by the City Engineer;
5. The requirements of the neighborhood parks and open space policy have been waived by the Bismarck Parks and Recreation District;
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of

(continued)

municipal services beyond the boundaries of the subdivision.

7. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development;
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends holding the public hearing and continuing action of the

zoning change from the A – Agricultural and P – Public zoning districts to the R5 – Residential, R10 – Residential, and P – Public zoning districts, as identified on the attached map, the final plat for Sattler’s Sunrise Tenth Addition, and the annexation of Blocks 1-5 and Lots 1-4, Block 6, Sattler’s Tenth Addition with the following condition:

1. A temporary turnaround complying with fire apparatus access roadway standards will be installed at the northern terminus of Tyndale Drive before any building permits are issued on a lot north of the intersection of Tyndale Drive and Meigs Drive.

until a final stormwater management plan can be approved by the City Engineer.

Attachments

1. Location Map – Final Plat and Zoning Change
2. Location Map – Annexation
3. Zoning and Plan Reference Map
4. Final Plat
5. Preliminary Plat
6. Annexation Map
7. Master Plan for Entire Section

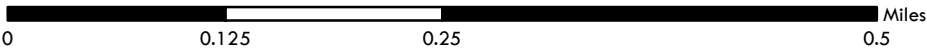
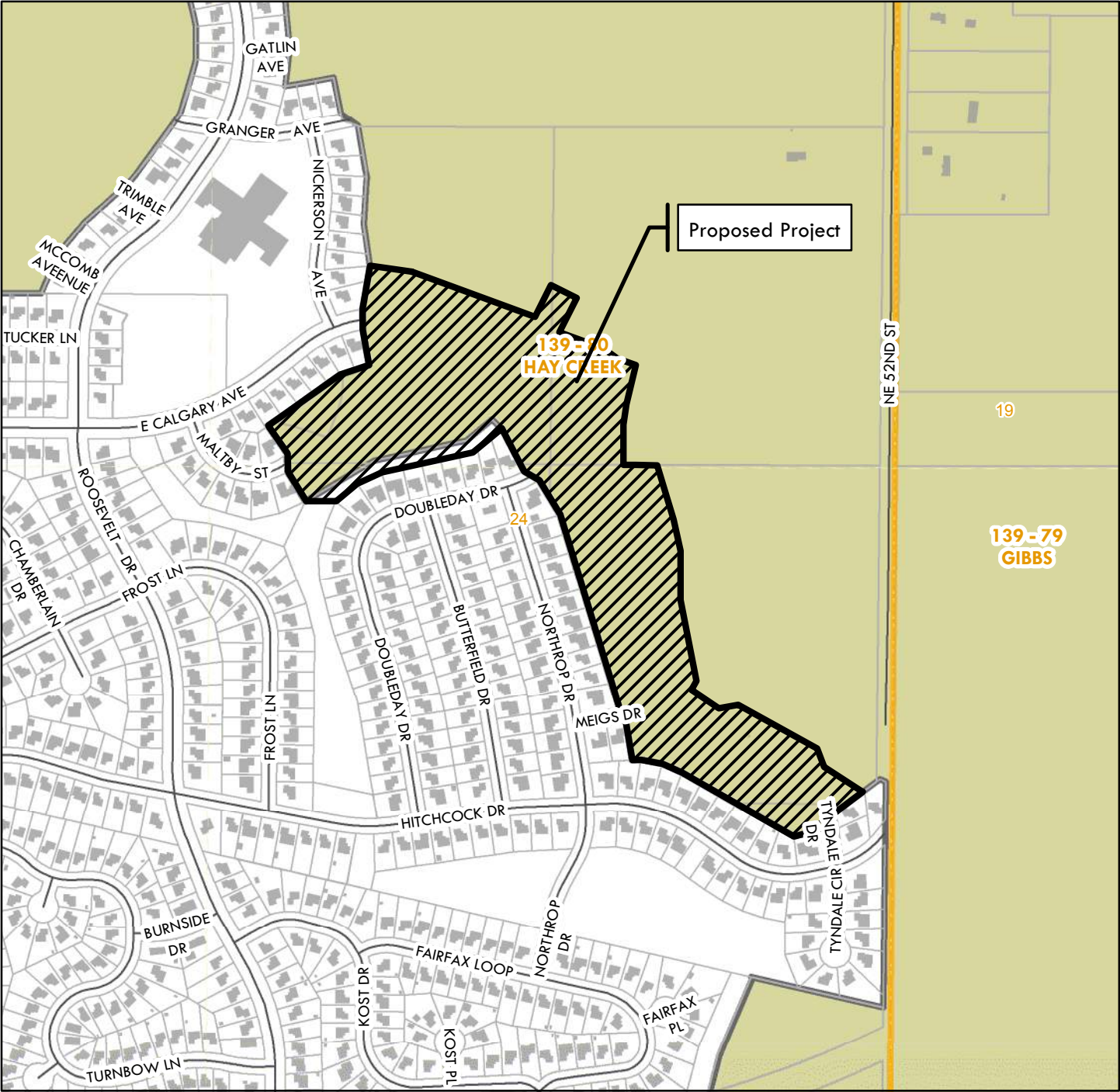
Staff report prepared by: Daniel Nairn, AICP, Planner
701-355-1854 | dnairn@bismarcknd.gov



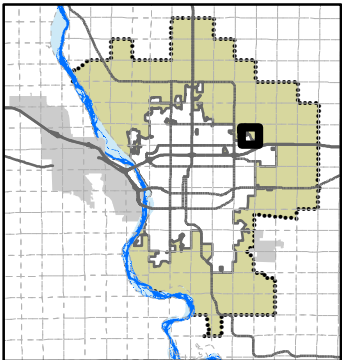
Proposed Plat and Zoning Change (A to R5, R10 & P)

Sattler's Sunrise Tenth Addition

Trakit Projects PPLT2017-006, ZC2017-017
Location Map



Section, township, and range indicated in orange



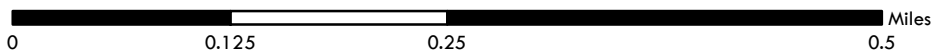
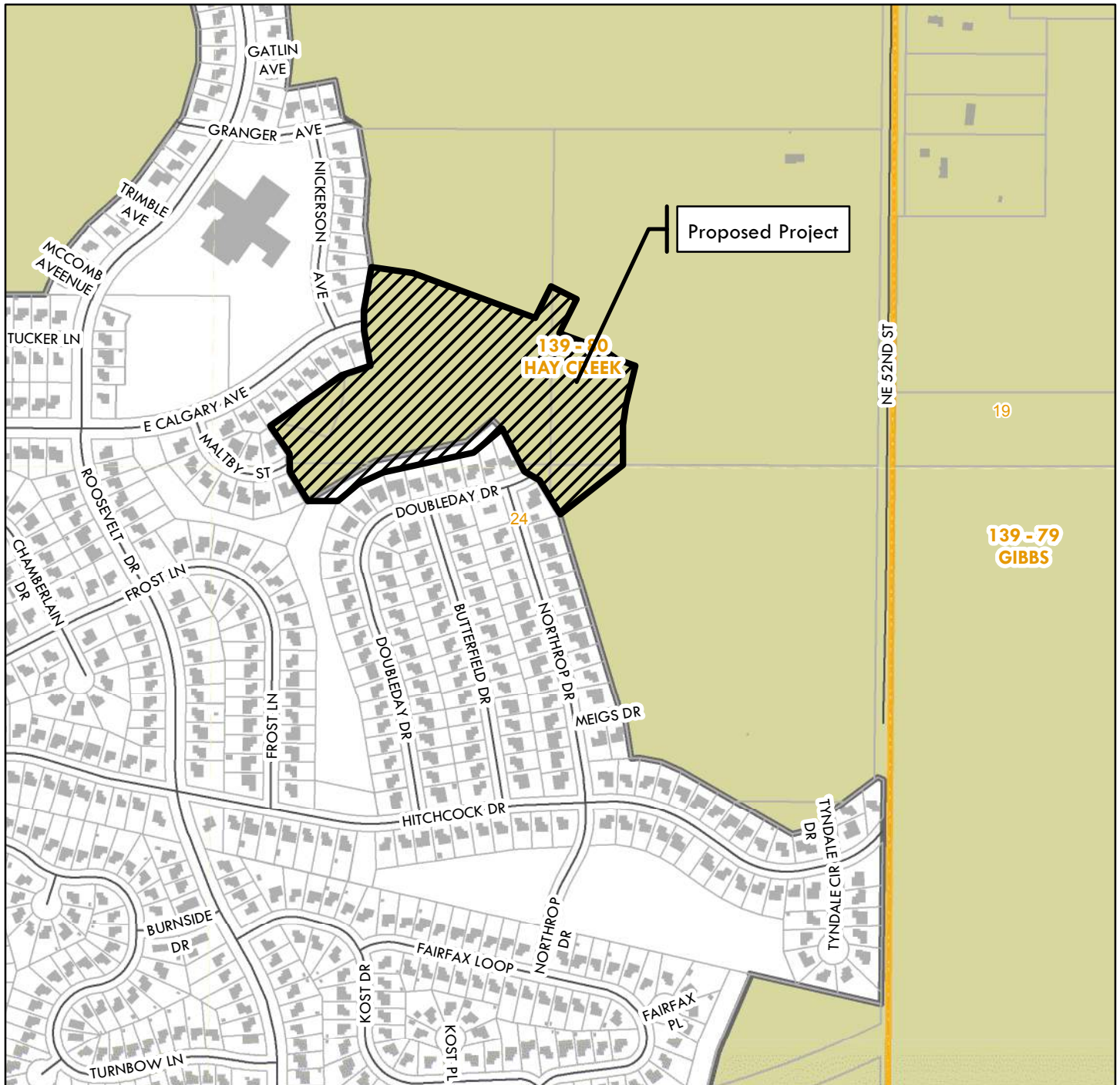
City of Bismarck
Community Development Department
Planning Division
November 9, 2017 (HLB)

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



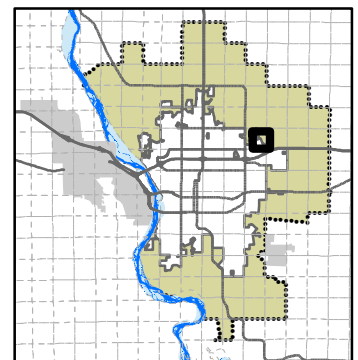
Proposed Annexation
Sattler's Sunrise Tenth Addition

Trakit Projects PPLT2017-006, ANNEX2017-004, ZC2017-017
Location Map



City Limits Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck
Community Development Department
Planning Division
November 9, 2017 (HLB)



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Proposed Final Plat and Zoning Change

Sattler's Sunrise Tenth Addition

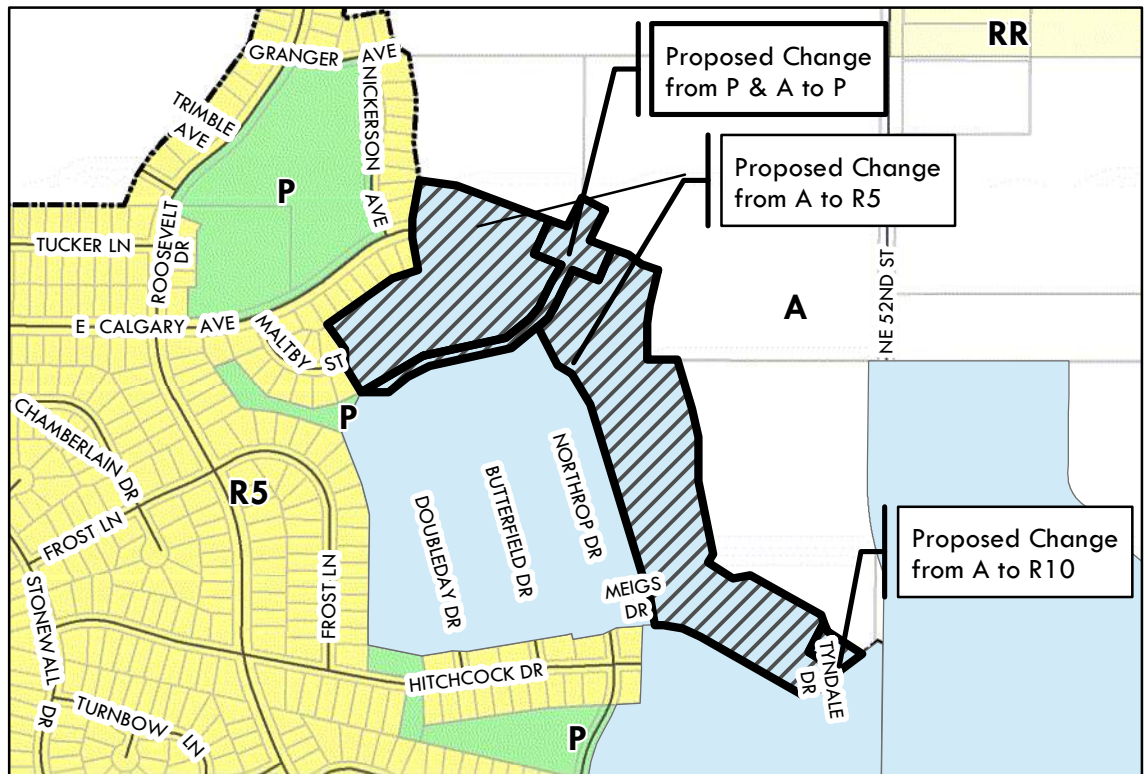
Zoning and Plan
Reference Map

-  Project Area - No Change Proposed
-  Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

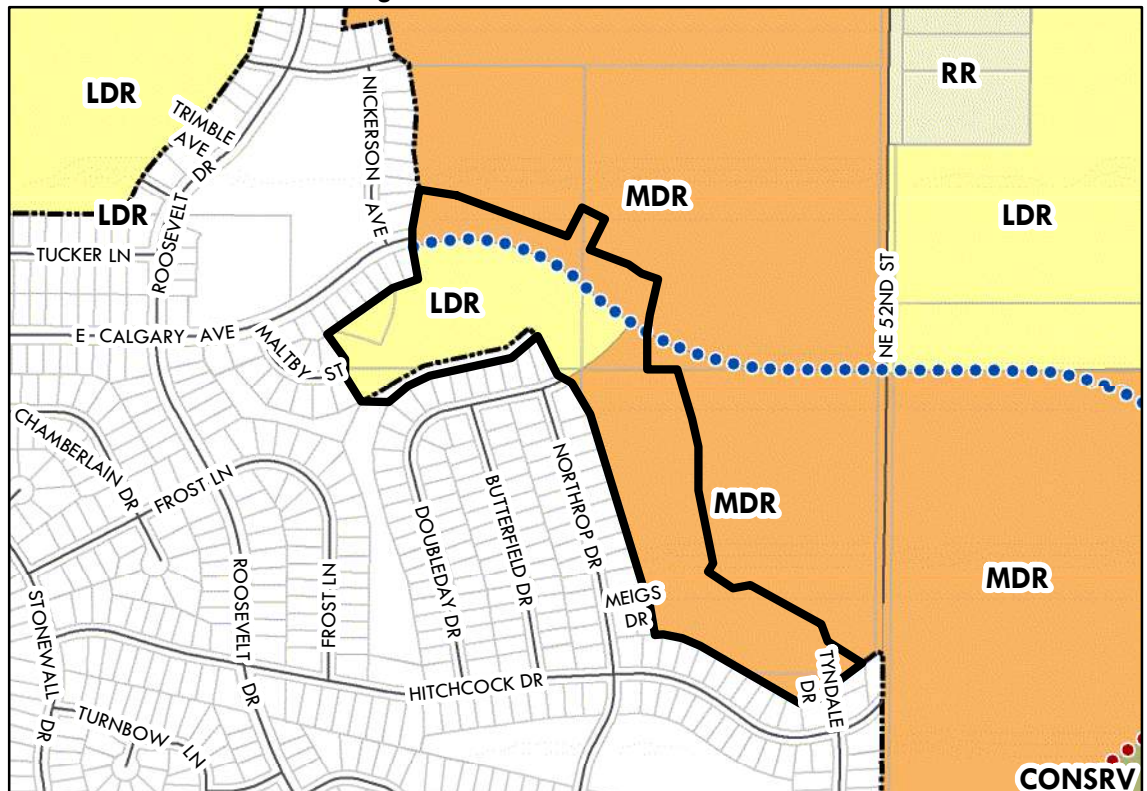
Zoning Map





Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

-  Planned Arterial
-  Planned Collector



This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated herein.

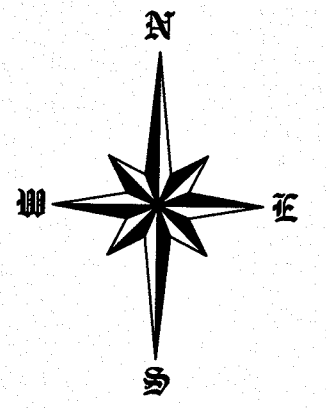


City of Bismarck
Community Development Dept.
Planning Division
November 9, 2017

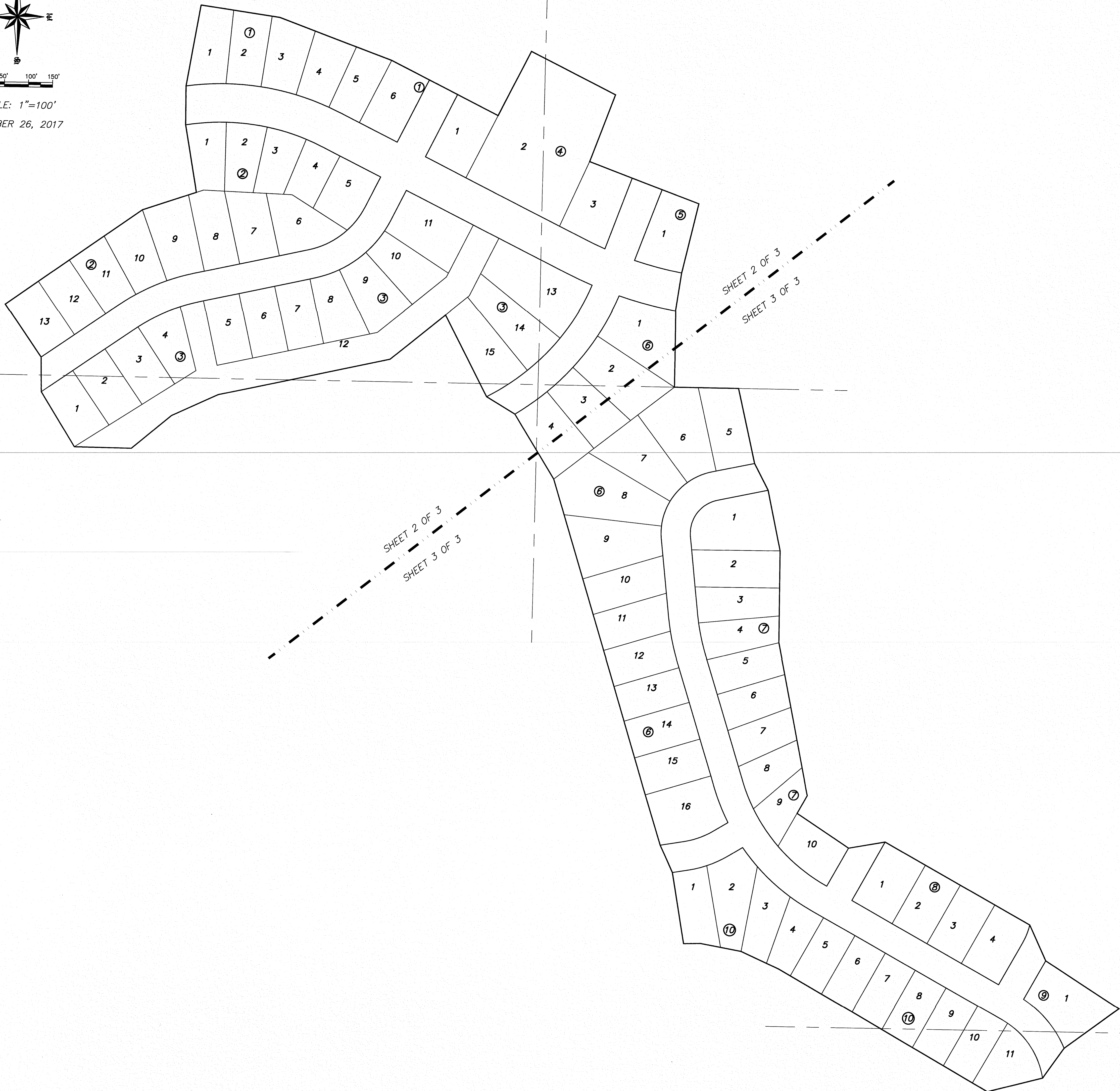
SATTLER'S SUNRISE TENTH ADDITION

PART OF LOT 25 BLOCK 1 SATTLER'S SUNRISE NINTH ADDITION AND PART OF THE EAST 1/2 OF
SECTION 24 TOWNSHIP 139 NORTH RANGE 80 WEST

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



SCALE: 1"=100'
OCTOBER 26, 2017



SWENSON, HAGEN & COMPANY P.C.

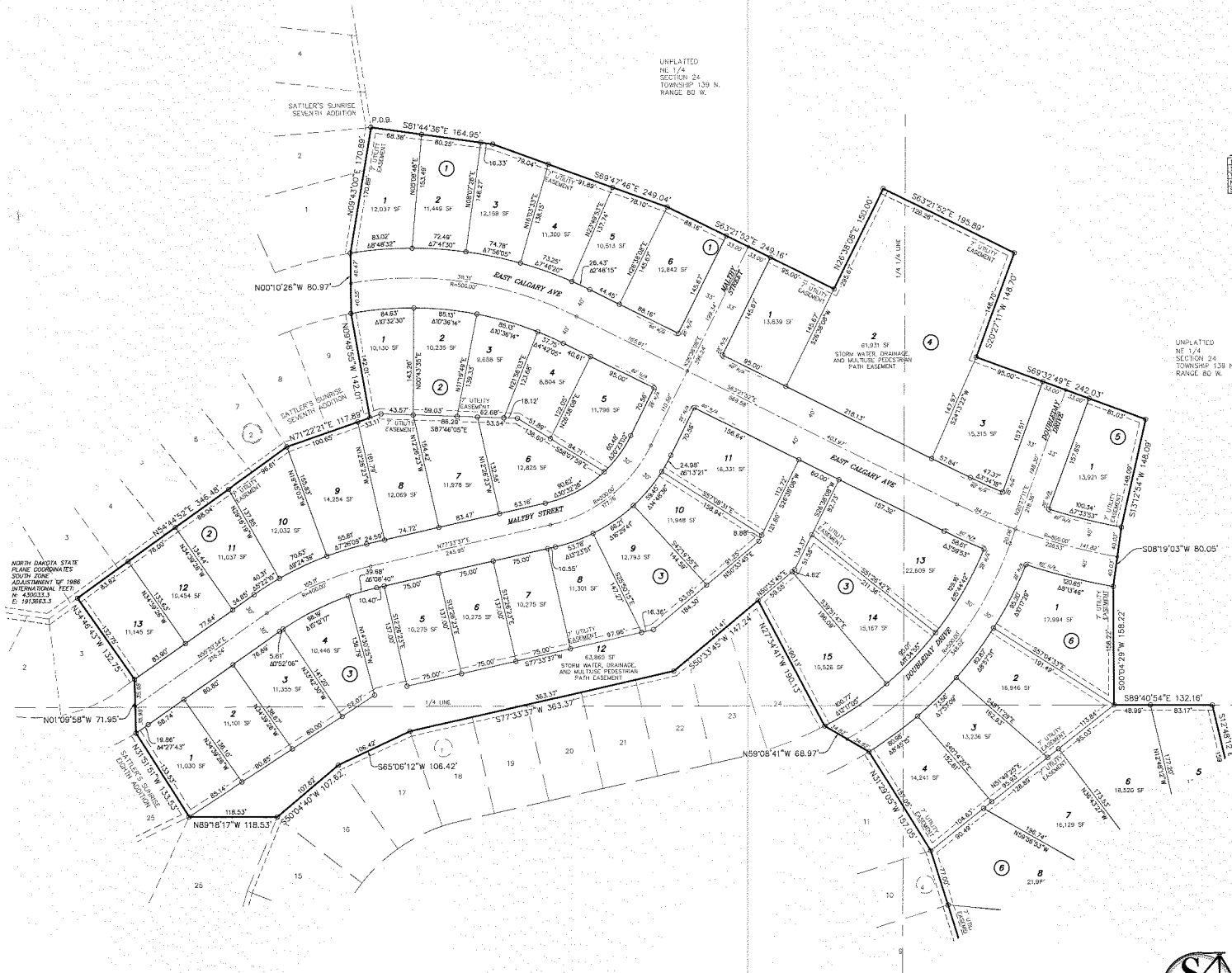
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management

909 Basin Avenue
Bismarck, North Dakota 58504
sheng@swensonhagen.com
Phone (701) 223 - 2600
Fax (701) 223 - 2606

SATTLER'S SUNRISE TENTH ADDITION

PART OF LOT 25 BLOCK 1 SATTLER'S SUNRISE NINTH ADDITION AND PART OF THE EAST 1/2 OF SECTION 24 TOWNSHIP 139 NORTH RANGE 80 WEST

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA



AREA DATA			
LOTS	1,152,408 SF	26.30 ACRES	
TOTALS	1,152,408 SF	26.30 ACRES	
TOTAL	1,152,408 SF	26.30 ACRES	
NE 1/4	288,102 SF	6.59 ACRES	
SE 1/4	288,102 SF	6.59 ACRES	



SCALE: 1"=60'

OCTOBER 26, 2017

- MOVEMENT TO BE SET
- MOVEMENT IN PLACE

NOTES

BASES OF BEARING:
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY
CITY ORDINANCE

COORDINATE DATUM:
NORTH DAKOTA STATE PLANE COORDINATE
SYSTEM
NAD 83 SOUTH ZONE
ADJUSTMENT OF 1986
UNITS ARE INTERNATIONAL FEET

BEARINGS AND DISTANCES MAY VARY FROM
PREVIOUS PLATS DUE TO DIFFERENT METHODS
OF MEASUREMENTS.



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Construction Management

SATTLE'S SUNRISE TENTH ADDITION

PART OF LOT 25 BLOCK 1 SATTLE'S SUNRISE NINTH ADDITION AND PART OF THE EAST 1/2 OF SECTION 24 TOWNSHIP 139 NORTH RANGE 80 WEST

BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

DESCRIPTION

PART OF LOT 25 BLOCK 1 SATTLE'S SUNRISE NINTH ADDITION AND PART OF THE EAST 1/2 OF SECTION 24 TOWNSHIP 139 NORTH RANGE 80 WEST, BISMARCK, BURLEIGH COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 2 BLOCK 7 SATTLE'S SUNRISE SEVENTH ADDITION, THENCE SOUTH 81 DEGREES 44 MINUTES 36 SECONDS EAST, A DISTANCE OF 164.93 FEET, THENCE SOUTH 69 DEGREES 47 MINUTES 52 SECONDS EAST, A DISTANCE OF 240.04 FEET, THENCE SOUTH 63 DEGREES 52 SECONDS EAST, A DISTANCE OF 240.04 FEET, THENCE NORTH 28 DEGREES 38 MINUTES 08 SECONDS EAST, A DISTANCE OF 150.00 FEET, THENCE SOUTH 63 DEGREES 21 MINUTES 52 SECONDS EAST, A DISTANCE OF 189.89 FEET, THENCE SOUTH 20 DEGREES 37 MINUTES 11 SECONDS EAST, A DISTANCE OF 148.70 FEET, THENCE SOUTH 69 DEGREES 32 MINUTES 49 SECONDS EAST, A DISTANCE OF 242.03 FEET, THENCE SOUTH 11 DEGREES 15 MINUTES 54 SECONDS WEST, A DISTANCE OF 148.09 FEET, THENCE SOUTH 08 DEGREES 19 MINUTES 03 SECONDS WEST, A DISTANCE OF 80.00 FEET, THENCE SOUTH 00 DEGREES 04 MINUTES 59 SECONDS WEST, A DISTANCE OF 189.27 FEET TO THE SOUTH LINE OF THE NE 1/4 OF SAID SECTION 24, THENCE SOUTH 89 DEGREES 00 MINUTES 54 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 132.16 FEET, THENCE SOUTH 12 DEGREES 48 MINUTES 12 SECONDS EAST, A DISTANCE OF 159.45 FEET, THENCE SOUTH 27 DEGREES 23 MINUTES 08 SECONDS EAST, A DISTANCE OF 62.23 FEET, THENCE SOUTH 12 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 128.19 FEET, THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 190.80 FEET, THENCE SOUTH 11 DEGREES 00 MINUTES 03 SECONDS EAST, A DISTANCE OF 323.20 FEET, THENCE SOUTH 20 DEGREES 15 MINUTES 36 SECONDS WEST, A DISTANCE OF 42.18 FEET, THENCE SOUTH 56 DEGREES 36 MINUTES 38 SECONDS EAST, A DISTANCE OF 126.86 FEET, THENCE NORTH 79 DEGREES 51 MINUTES 40 SECONDS EAST, A DISTANCE OF 77.43 FEET, THENCE SOUTH 60 DEGREES 55 MINUTES 59 SECONDS EAST, A DISTANCE OF 346.86 FEET, THENCE SOUTH 24 DEGREES 35 MINUTES 56 SECONDS EAST, A DISTANCE OF 81.50 FEET, THENCE SOUTH 57 DEGREES 08 MINUTES 45 SECONDS EAST, A DISTANCE OF 180.31 FEET TO THE BOUNDARY OF SATTLE'S SUNRISE SIXTH ADDITION, THENCE SOUTH 51 DEGREES 15 MINUTES 26 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 139.51 FEET, THENCE SOUTH 34 DEGREES 48 MINUTES 00 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 118.10 FEET, THENCE NORTH 80 DEGREES 15 MINUTES 08 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 503.46 FEET, THENCE NORTH 60 DEGREES 35 MINUTES 51 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 85.62 FEET, THENCE NORTH 79 DEGREES 37 MINUTES 08 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 85.53 FEET, THENCE SOUTH 89 DEGREES 26 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 34.62 FEET, THENCE NORTH 08 DEGREES 30 MINUTES 08 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 547.94 FEET, THENCE NORTH 24 DEGREES 28 MINUTES 24 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 62.10 FEET, THENCE NORTH 17 DEGREES 00 MINUTES 00 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 791.35 FEET, THENCE NORTH 11 DEGREES 29 MINUTES 05 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 157.05 FEET, THENCE NORTH 59 DEGREES 08 MINUTES 41 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 68.87 FEET, THENCE NORTH 27 DEGREES 34 MINUTES 41 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 190.13 FEET TO THE BOUNDARY OF SATTLE'S SUNRISE NINTH ADDITION, THENCE SOUTH 50 DEGREES 33 MINUTES 45 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 147.24 FEET, THENCE SOUTH 77 DEGREES 31 MINUTES 37 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 363.37 FEET, THENCE SOUTH 65 DEGREES 08 MINUTES 12 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 106.42 FEET, THENCE SOUTH 50 DEGREES 04 MINUTES 40 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 109.74 FEET, THENCE NORTH 08 DEGREES 18 MINUTES 17 SECONDS WEST, A DISTANCE OF 118.43 FEET TO THE BOUNDARY OF SATTLE'S SUNRISE EIGHTH ADDITION, THENCE NORTH 31 DEGREES 51 MINUTES 51 SECONDS WEST, ALONG SAID BOUNDARY, A DISTANCE OF 133.53 FEET, THENCE NORTH 01 DEGREES 09 MINUTES 58 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 71.95 FEET, THENCE NORTH 34 DEGREES 48 MINUTES 43 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 75.75 FEET, THENCE NORTH 08 DEGREES 48 MINUTES 35 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 117.89 FEET, THENCE NORTH 09 DEGREES 48 MINUTES 35 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 142.01 FEET, THENCE NORTH 00 DEGREES 10 MINUTES 28 SECONDS WEST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 80.91 FEET, THENCE NORTH 08 DEGREES 43 MINUTES 00 SECONDS EAST, CONTINUING ALONG SAID BOUNDARY, A DISTANCE OF 170.80 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED TRACT CONTAINS 32.29 ACRES, MORE OR LESS.

SURVEYOR'S CERTIFICATE

MATTHEW M. STERN, A REGISTERED LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED IN 2017, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

ON THIS _____ DAY OF _____, 2017, BEFORE ME PERSONALLY APPEARED MATTHEW M. STERN, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH }
SWENSON, HAGEN & CO. P.C.
809 BASIN AVENUE
BISMARCK, NORTH DAKOTA 58504
MATTHEW M. STERN
REGISTERED LAND SURVEYOR
N.D. REGISTRATION NO. 8299

APPROVAL OF CITY PLANNING COMMISSION

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE _____ DAY OF _____, 2017, IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

WAYNE LEE YEAGER - CHAIRMAN

CARL D. HORNSTADT - SECRETARY

APPROVAL OF BOARD OF CITY COMMISSIONERS

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE ANNEXED PLAT AS AN ADDITION TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE _____ DAY OF _____, 2017.

ATTEST
KEITH J. HUNKE - CITY ADMINISTRATOR

APPROVAL OF CITY ENGINEER

I, GABRIEL J. SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "SATTLE'S SUNRISE TENTH ADDITION", BISMARCK, NORTH DAKOTA AS SHOWN ON THE ANNEXED PLAT.

GABRIEL J. SCHELL
CITY ENGINEER

OWNER'S CERTIFICATE & DEDICATION

KNOW ALL MEN BY THESE PRESENTS THAT SATTLE HOMES INC. AND BISMARCK PARKS AND RECREATION DISTRICT, BEING THE OWNERS AND PROPRIETORS OF THE PROPERTY SHOWN HEREON, HAVE CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "SATTLE'S SUNRISE TENTH ADDITION", BISMARCK, NORTH DAKOTA, AND DO SO DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO THE CITY OF BISMARCK TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY, SANITARY SEWER, STORM SEWER & STORM WATER EASEMENTS.

THEY FURTHERMORE DEDICATE UNTO THE CITY OF BISMARCK "STORM WATER AND DRAINAGE EASEMENTS" TO RUN WITH THE LAND FOR THE PURPOSE OF STORM SEWER AND SURFACE WATER DRAINAGE UNDER, OVER, THROUGH AND/OR ACROSS THOSE AREAS DEDICATED HEREON AS "STORM WATER AND DRAINAGE EASEMENTS" FOR THE PURPOSE OF CONSTRUCTION, RECONSTRUCTION, REPAIR, ENLARGING AND MAINTAINING STORM WATER MANAGEMENT FACILITIES TOGETHER WITH NECESSARY APPURTENANCES THEREOF FOR STORM WATER, STORM SEWER AND SURFACE WATER DRAINAGE AND MANAGEMENT OF SAID STORM WATER FLOW IN A MANNER THAT WILL PERMIT THE FREE AND UNOBSTRUCTED FLOW OF WATER UNDER, OVER AND/OR ACROSS THE EASEMENT AREA.

THEY FURTHERMORE DEDICATE UNTO THE CITY OF BISMARCK PARKS & RECREATION DISTRICT A "MULTIUSE PEDESTRIAN PATH EASEMENT" FOR THE CONSTRUCTION AND MAINTENANCE OF RECREATIONAL TRAILS OVER AND ACROSS THOSE AREAS DEDICATED HEREON AS "MULTIUSE PEDESTRIAN PATH EASEMENTS".

STATE OF NORTH DAKOTA

COUNTY OF BURLEIGH }

ROBB SATTLE

SATTLE HOMES INC.

P.O. BOX 7218

BISMARCK, ND 58507-7218

ON THIS _____ DAY OF _____, 2017, BEFORE ME PERSONALLY APPEARED ROBB SATTLE OF SATTLE HOMES INC. KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC

BURLEIGH COUNTY, NORTH DAKOTA

MY COMMISSION EXPIRES _____

STATE OF NORTH DAKOTA

COUNTY OF BURLEIGH }

BISMARCK PARKS & RECREATION DISTRICT

400 EAST FRONT AVENUE

BISMARCK, ND 58504

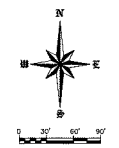
OWNER OF LOT 12 BLOCK 3

ON THIS _____ DAY OF _____, 2017, BEFORE ME PERSONALLY APPEARED _____ OF THE BISMARCK PARKS & RECREATION DISTRICT, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC

BURLEIGH COUNTY, NORTH DAKOTA

MY COMMISSION EXPIRES _____



SCALE: 1"=60'

OCTOBER 26, 2017

○ MONUMENT TO BE SET

● MONUMENT IN PLACE

NOTES

BASES OF BEARING:

NORTH DAKOTA STATE PLANE, SOUTH ZONE BY

CITY ORDINANCE

COORDINATE DATUM:

NORTH DAKOTA STATE PLANE COORDINATE

SYSTEM

NAD 83 SOUTH ZONE

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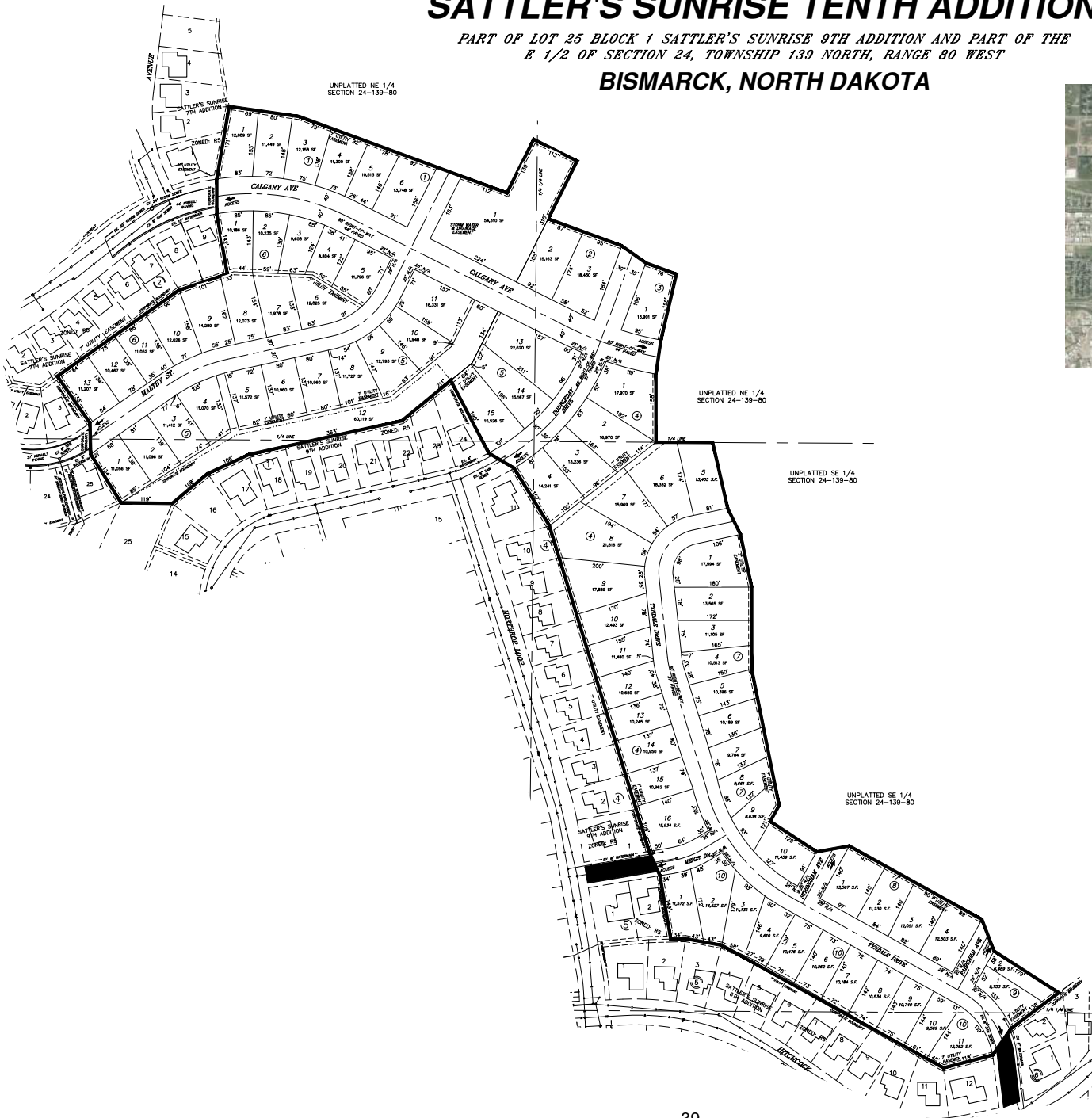
Landscape & Site Design

Construction Management

SATTLE'S SUNRISE TENTH ADDITION

PART OF LOT 25 BLOCK 1 SATTLE'S SUNRISE 9TH ADDITION AND PART OF THE
E 1/2 OF SECTION 24, TOWNSHIP 139 NORTH, RANGE 80 WEST

BISMARCK, NORTH DAKOTA



LOCATION MAP

32.3 ACRES
EXISTING ZONING: A & P
PROPOSED ZONING: R5, R10 & P
81 LOTS

ZONING: P= LOT 12 BLOCK 5
R10= LOTS 1-2 BLOCK 9
R5= REMAINING LOTS

ANNEX: ALL OF
BLOCKS 1, 2, 3, 5, 6, 8, 9 & 10
AND
LOTS 1-4, 16 BLOCK 1
LOTS 8-10 BLOCK 7

OWNER: SATTLE FAMILY, LLLP
ADDRESS: 324 LIVE OAK LANE
BISMARCK, ND 58504
PHONE: (701) 255-7621



0 100' 200'
SCALE - 1" = 100'

VERTICAL DATUM: NAVD 88

AUGUST 25, 2017

SATTLER'S SUNRISE TENTH ADDITION

ANNEXATION

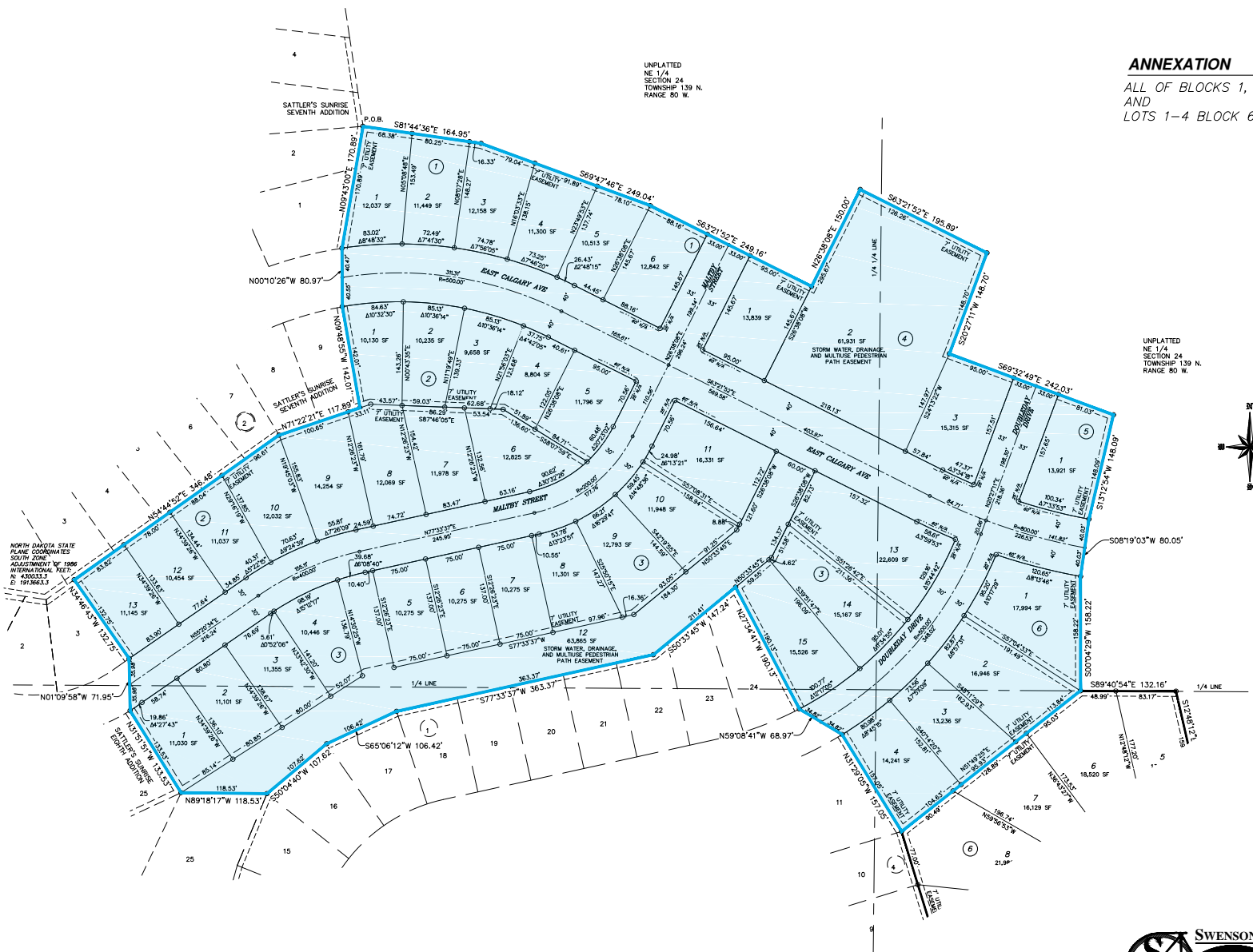
BISMARCK, BURLEIGH COUNTY, NORTH DAKOTA

UNPLATTED
NE 1/4
SECTION 24
TOWNSHIP 139 N.
RANGE 80 W.

ANNEXATION

ALL OF BLOCKS 1, 2, 3, 4 & 5
AND
LOTS 1-4 BLOCK 6

UNPLATTED
NE 1/4
SECTION 24
TOWNSHIP 139 N.
RANGE 80 W.



[illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible]

A detailed topographic map titled "Sattler's Sunrise Master Plan". The map shows a residential development area with numerous circular tree symbols indicating planting locations. A large, irregularly shaped area in the center is outlined in thick black and labeled "Proposed Sattler's Tenth Addition". To the left of this area is a blue-shaded pond labeled "Sunrise School". Various acreage labels are scattered across the map, including "15 Ac", "21 Ac", and "272 Ac". Road names like "Century Ave", "Pondside Drive", and "Fairview Place" are visible. The map also features contour lines representing elevation and several smaller labels such as "Sattler's Sunrise Second" and "Sattler's Sunrise North". A small inset box in the top left corner contains the title "Sattler's Sunrise Master Plan".

[illegible][illegible][illegible]

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[illegible][illegible][illegible][illegible]



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

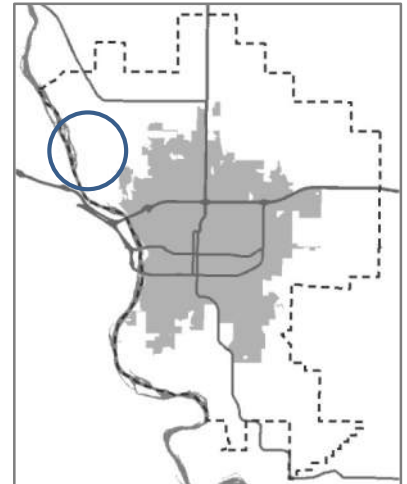
Agenda Item # 8
November 15, 2017

Application for: Zoning Change
Major Subdivision Final Plat

TRAKiT Project ID: ZC2017-015
FPLT2017-008

Project Summary

Title:	HR Subdivision
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Allyn Hanson Revocable Trust & Marlys Ward
Project Contact:	Landon Neimiller, Swenson, Hagen & Co.
Location:	Northwest of Bismarck, west of River Road, south of Burnt Creek Loop along the west side of Fernwood Drive. (Auditor's Lot M, NE 1/4 and Auditor's Lot L of Lot 4 Hanson Subdivision, of the NE 1/4 of Section 14, T139N-R81W/Haycreek Township).
Project Size:	2.29 acres
Request:	Rezone and plat property to create one rural residential lot.



Site Information

Existing Conditions		Proposed Conditions	
Number of Lots:	2 lots	Number of Lots:	1 lot
Land Use:	Undeveloped	Land Use:	Rural Residential
Designated GMP Future Land Use:	Conventional Rural Residential	Designated GMP Future Land Use:	Conventional Rural Residential
Zoning:	RR – Residential A – Agricultural	Zoning:	RR – Residential
Uses Allowed:	RR – Large lot single-family residential and limited agriculture A – Agriculture	Uses Allowed:	RR – Large lot single-family residential and limited agriculture
Max Density Allowed:	RR – 1 unit per 65,000 square feet A – 1 unit / 40 acres	Max Density Allowed:	RR – 1 unit per 65,000 square feet

Property History

Zoned:	RR – 09/04 A – 09/04	Platted:	Part of Hanson Subdivision – 6/1992	Annexed:	N/A
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Staff Analysis

The Planning and Zoning Commission called for a public hearing on the zoning change from the A- Agriculture and RR – Residential zoning district and tentatively approved the preliminary plat for HR Subdivision at their meeting on July 26, 2017.

This proposed request includes both a platted parcel which is zoned RR - Residential and an unplatted parcel which is zoned A - Agricultural. As proposed, both lots would be platted as a one lot, one block subdivision and zoned RR – Residential, which would allow for the development of one single-family rural residence.

The Future Land Use Plan in the 2014 Growth Management Plan, as amended, identifies this area as Rural Residential. The rural residential classification allows for single-family dwellings and requires densities of less than one unit per acre. The resulting one lot in the proposed HR Subdivision would meet all minimum lot standards and conform to the density requirements for the RR – Residential district as outlined in the Future Land Use Plan as amended and the current zoning ordinance. The proposed zoning would be compatible with adjacent land uses which include rural dwellings to the east across Fernwood Drive and agriculture uses to the south, west and north.

The proposed plat is consistent with the Fringe Area Road Master Plan (FARMP) which identifies Fernwood Drive as an existing collector. The proposed 40 feet of right-of-way from the centerline of Fernwood Drive is consistent with design standards for areas outside of the City of Bismarck corporate limits. A waiver from Burleigh County's Gravel Road Improvement Policy was granted at the May 1, 2017 meeting of the Burleigh County Commission. Therefore, the applicant will not be required to pave Fernwood Drive.

The property is located within two miles of the corporate limits and a five-year rural water service has been approved and is indicated on the proposed final plat.

The entire proposed subdivision is located within the Special Flood Hazard Area (SFHA) or 100-year floodplain. Development of the site, including construction of the proposed single-family rural

residential dwelling, must comply with Section 14-03-09 of the City Code of Ordinances (FP – Floodplain District). A floodplain development permit application must be submitted to the Building Inspections Division and approved by the Floodplain Administrator before any land disturbing activity begins within the SFHA.

Required Findings of Fact (relating to land use)*Zoning Change*

1. The proposed zoning change generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. Burleigh County and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed;
4. The Hay Creek Township Board of Supervisors has recommended approval of the proposed zoning change;
5. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Final Plat

1. All technical requirements for approval of a final plat have been met;

(continued)

2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission;
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended;
4. The stormwater management plan for the subdivision has been approved by the City Engineer with written concurrence from the County Engineer;
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts;
6. The Hay Creek Township Board of Supervisors has recommended approval of the proposed final plat;
7. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
8. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed;
9. The proposed subdivision is located within the Special Flood Hazard Area (SFHA), also

known as the 100-year floodplain. However, the subdivision is proposed to be developed according to existing ordinance requirements pertaining to development in the floodplain and therefore, the proposed development would not adversely impact water quality and/or environmentally sensitive lands,

10. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
11. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
12. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning change from the A – Agriculture and RR – Residential zoning districts to the RR – Residential zoning district and final plat titled HR Subdivision.

Attachments

1. Location Map
2. Zoning and Plan Reference Map
3. Final Plat
4. Preliminary Plat
5. Resolution from Hay Creek Township

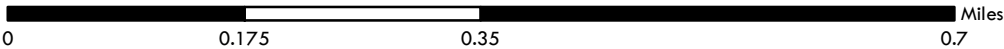
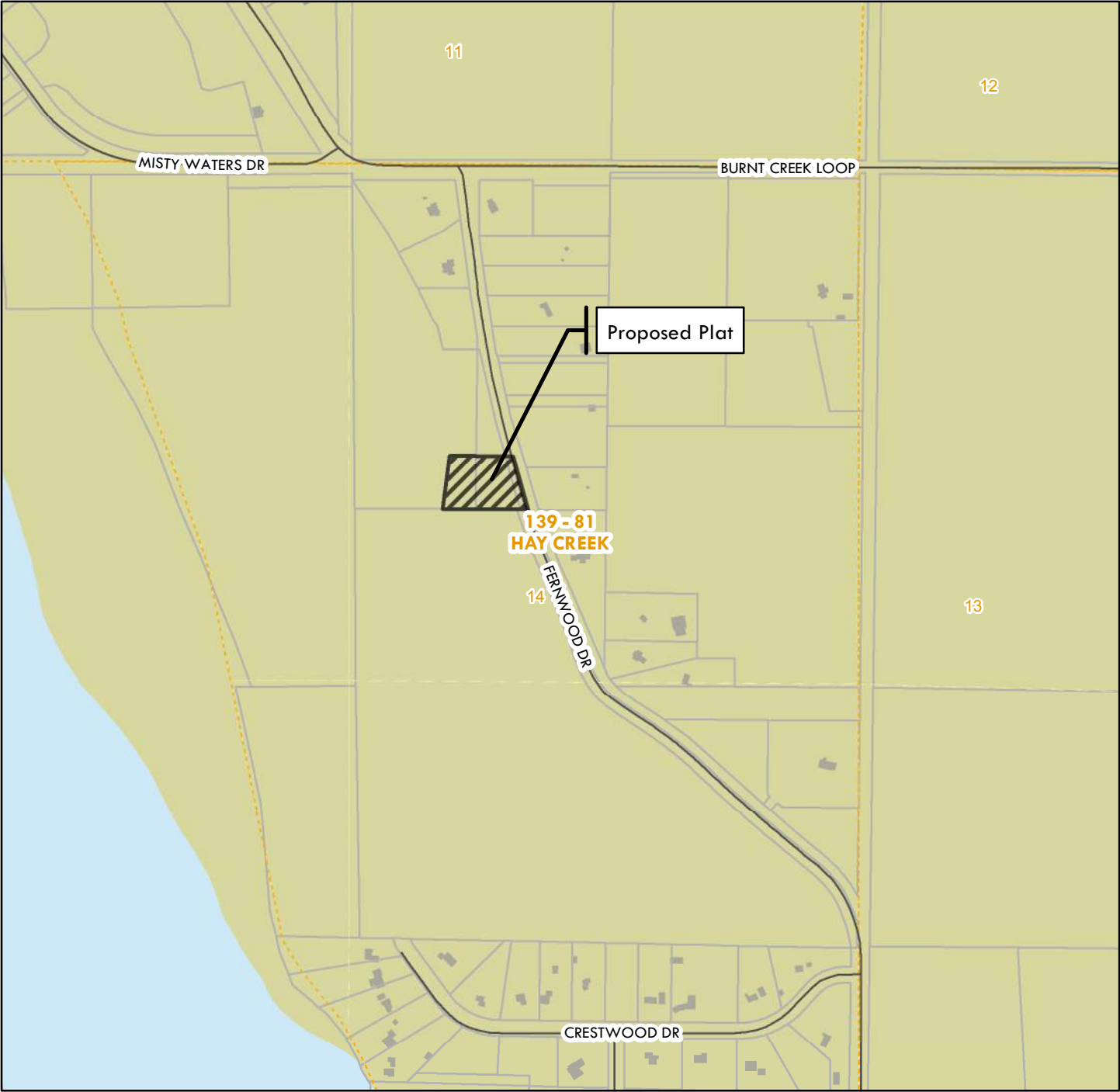
Staff report prepared by: Will Hutchings, Planner

701-355-1850 | whutchings@bismarcknd.gov



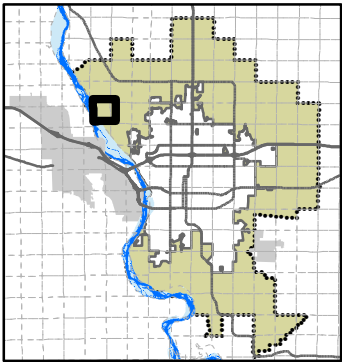
**Proposed Plat and Zoning Change (A and RR to RR)
HR Subdivision**

Project
Location Map



City Limits Bismarck ETA Jurisdiction

Section, township, and
range indicated in orange



City of Bismarck
Community Development Department
Planning Division
June 26, 2017 (HLB)

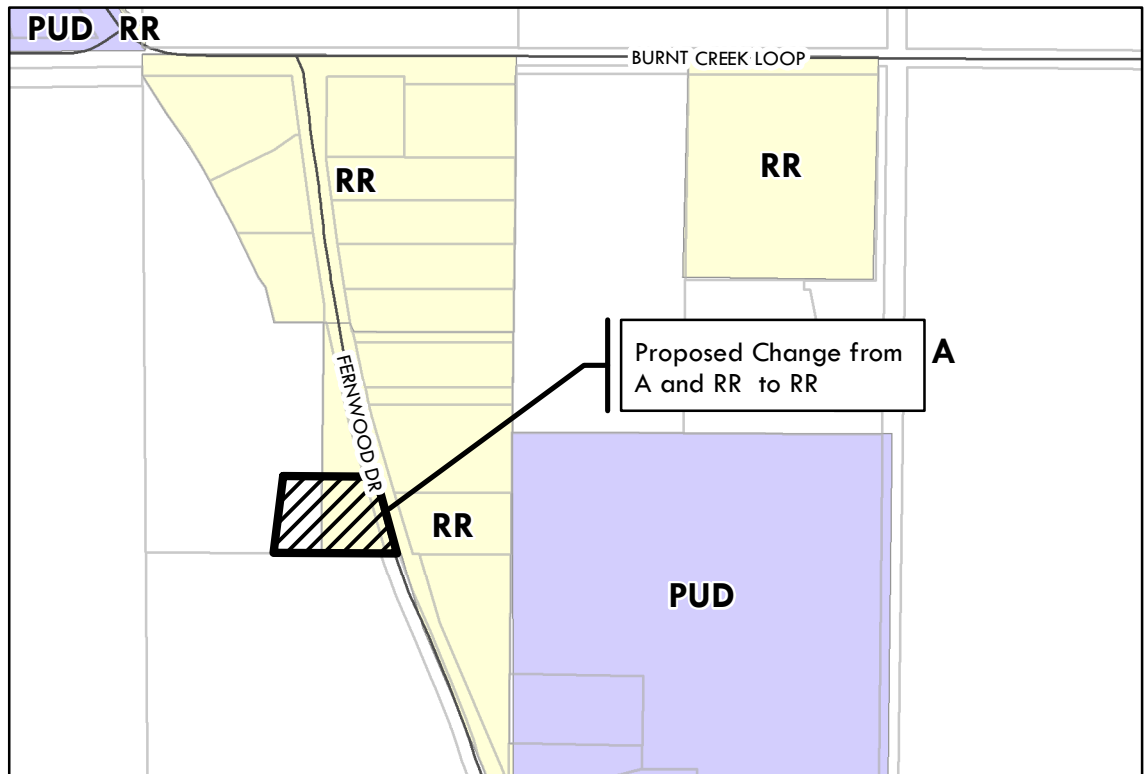
This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.

- Project Area - No Change Proposed
- Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural Residential
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

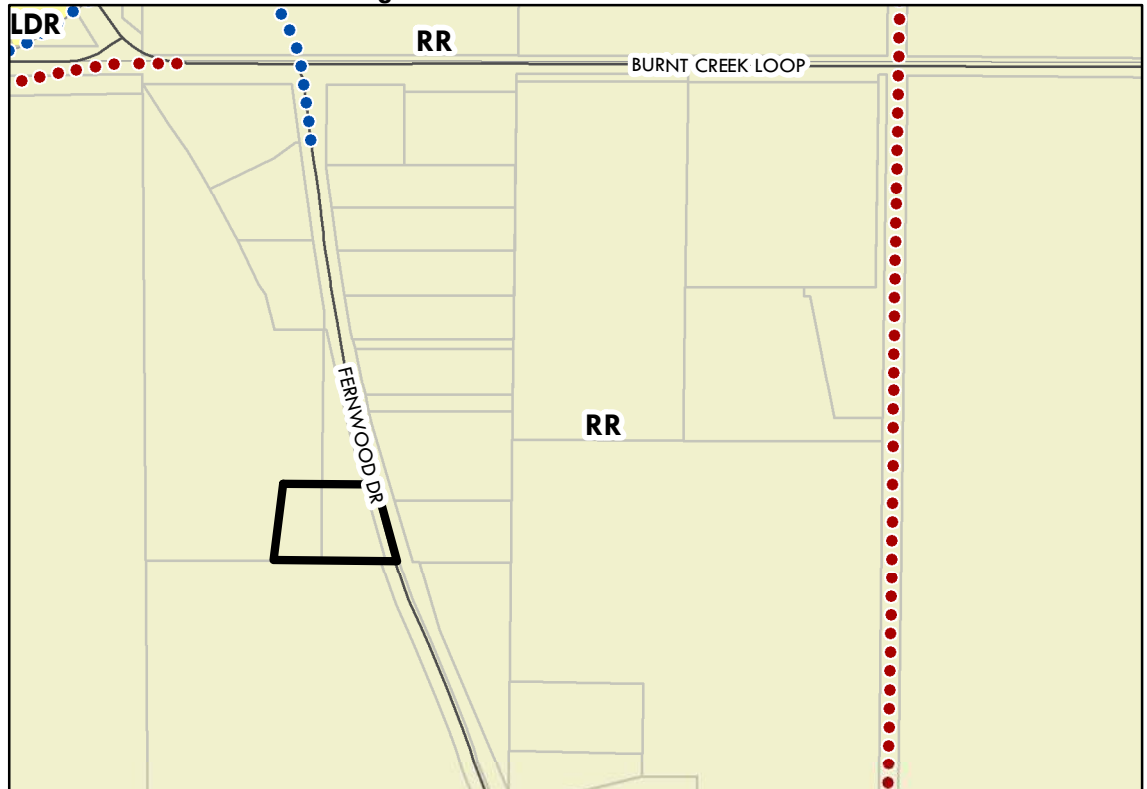
Zoning Map



Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
MDR-/MU	Medium Density Residential/Mixed Use
MU	Mixed Use
O/MU	Office/Mixed Use
RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

- Planned Arterial
- Planned Collector

0 0.1 0.2 0.4 Miles

City Limits

This map is for representational use only and does not represent a survey. No liability is assumed as to the accuracy of the data delineated hereon.



City of Bismarck
Community Development Dept.
Planning Division
July 17, 2017

BEING AUDITOR'S LOT M OF THE NE 1/4 AND AUDITOR'S LOT L OF LOT 4 OF HANSON SUBDIVISION, AND PART OF FERNWOOD DRIVE RIGHT OF WAY, PART OF THE NORTHEAST 1/4 OF SECTION 14, TOWNSHIP 139 NORTH, RANGE 81 WEST, BURLEIGH COUNTY, DESCRIBED AS FOLLOWS:

THE ABOVE DESCRIBED TRACT CONTAINS 88,899 SF, MORE OR LESS.

I, TERRY BALTZER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF NORTH DAKOTA, HEREBY CERTIFY THAT THE ANNEXED PLAT IS A TRUE COPY OF THE NOTES OF A SURVEY PERFORMED UNDER MY SUPERVISION AND COMPLETED ON _____, 2017, THAT ALL INFORMATION SHOWN HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT ALL MONUMENTS SHOWN HEREON ARE CORRECT, THAT ALL REQUIRED MONUMENTS HAVE BEEN SET, AND THAT ALL DIMENSIONAL AND GEODETIC DETAILS ARE CORRECT.

ON THIS ____ DAY OF _____ 2017, BEFORE ME PERSONALLY APPEARED TERRY BALTZER, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING SURVEYOR'S CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

THE SUBDIVISION OF LAND AS SHOWN ON THE ANNEXED PLAT HAS BEEN APPROVED BY THE PLANNING COMMISSION OF THE CITY OF BISMARCK, ON THE _____ IN ACCORDANCE WITH LAWS OF THE STATE OF NORTH DAKOTA, ORDINANCES OF THE CITY OF BISMARCK AND REGULATIONS ADOPTED BY THE SAID PLANNING COMMISSION. IN WITNESS WHEREOF ARE SET THE HANDS AND SEALS OF THE CHAIRMAN AND SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF BISMARCK.

WAYNE LEE YEAGER - CHAIRMAN

THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF THE CITY OF BISMARCK, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT.

THE FOREGOING ACTION OF THE BOARD OF CITY COMMISSIONERS OF BISMARCK, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE ____ DAY OF _____, 2017.

ATTEST
KEITH J. HUNKE - CITY ADMINISTRATOR

I, GABRIEL J SCHELL, CITY ENGINEER OF THE CITY OF BISMARCK, NORTH DAKOTA, HEREBY APPROVE "HR SUBDIVISION", BISMARCK, NORTH DAKOTA AS SHOWN ON THE PLAT.

GABRIEL J. SCHELL
CITY ENGINEER

THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, HAS APPROVED THE SUBDIVISION OF LAND AS SHOWN ON THE PLAT, HAS ACCEPTED THE DEDICATION OF ALL STREETS SHOWN THEREON, HAS APPROVED THE GROUNDS AS SHOWN ON THE PLAT AS AN AMENDMENT TO THE MASTER PLAN OF BURLEIGH COUNTY, NORTH DAKOTA, AND DOES HEREBY VACATE ANY PREVIOUS PLATTING WITHIN THE BOUNDARY OF THE ANNEXED PLAT.

THE FOREGOING ACTION OF THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA, WAS TAKEN BY RESOLUTION APPROVED THE ____ DAY OF _____, 2016.

ATTEST: KEVIN J GLATT — COUNTY AUDITOR

KNOW ALL MEN BY THESE PRESENTS THAT WELLS FARGO BANK, N.A., AS TRUSTEE OF THE ALLYN G. HANSON REVOCABLE LIVING TRUST, BEING THE OWNER AND PROPRIETOR OF THE PROPERTY SHOWN HEREON HAS CAUSED THAT PORTION DESCRIBED HEREON TO BE SURVEYED AND PLATTED AS "HR SUBDIVISION", BURLEIGH COUNTY, NORTH DAKOTA, AND DO SO RE-DEDICATE STREETS AS SHOWN HEREON INCLUDING ALL SEWER, CULVERTS, WATER AND OTHER PUBLIC UTILITY LINES WHETHER SHOWN HEREON OR NOT TO THE PUBLIC USE FOREVER.

THEY ALSO DEDICATE EASEMENTS TO THE PUBLIC TO RUN WITH THE LAND, FOR GAS, ELECTRIC, TELEPHONE OR OTHER PUBLIC UTILITIES OR SERVICES ON OR UNDER THOSE CERTAIN STRIPS OF LAND DESIGNATED HEREON AS UTILITY EASEMENTS.

ON THIS ____ DAY OF _____, 2017, BEFORE ME PERSONALLY APPEARED DANIEL D. DEKREY. KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHO EXECUTED THE FOREGOING CERTIFICATE AND HE ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

NOTARY PUBLIC
BURLEIGH COUNTY, NORTH DAKOTA
MY COMMISSION EXPIRES _____

BASIS OF BEARING:
NORTH DAKOTA STATE PLANE, SOUTH ZONE BY
CITY ORDINANCE

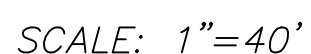
COORDINATE DATUM:
NORTH DAKOTA STATE PLANE COORDINATE
SYSTEM
NAD 83 SOUTH ZONE
ADJUSTMENT OF 1986
UNITS ARE INTERNATIONAL FEET

BEARINGS AND DISTANCES MAY VARY FROM
PREVIOUS PLATS DUE TO DIFFERENT METHODS
OF MEASUREMENTS.

FIRM MAP PANEL NUMBER: 38015C0780D
100 YR. FLOOD PLAIN ELEVATION: 1640.5 (NAVD 88)

LOTS	88,899 S.F.	2.04 ACRES
STREETS	11,067 S.F.	0.25 ACRES
TOTAL	99,966 S.F.	2.29 ACRES

NOTE:
THE WATER SERVICE AGREEMENT BETWEEN THE CITY OF
BISMARCK AND SOUTH CENTRAL REGIONAL WATER DISTRICT WILL
ALLOW THE PROVISION OF WATER SERVICE TO HR SUBDIVISION
FOR A PERIOD OF 5 YEARS AND SUBSEQUENT TO THAT TIME,
THE CITY MAY, UPON A ONE YEAR NOTICE, REQUIRE SOUTH
CENTRAL REGIONAL WATER DISTRICT TO DISCONTINUE WATER
SERVICE IF CITY WATER SERVICE IS AVAILABLE.



OCTOBER 13, 2017

© MONUMENT IN PLACE



SWENSON, HAGEN & COMPANY P.C.

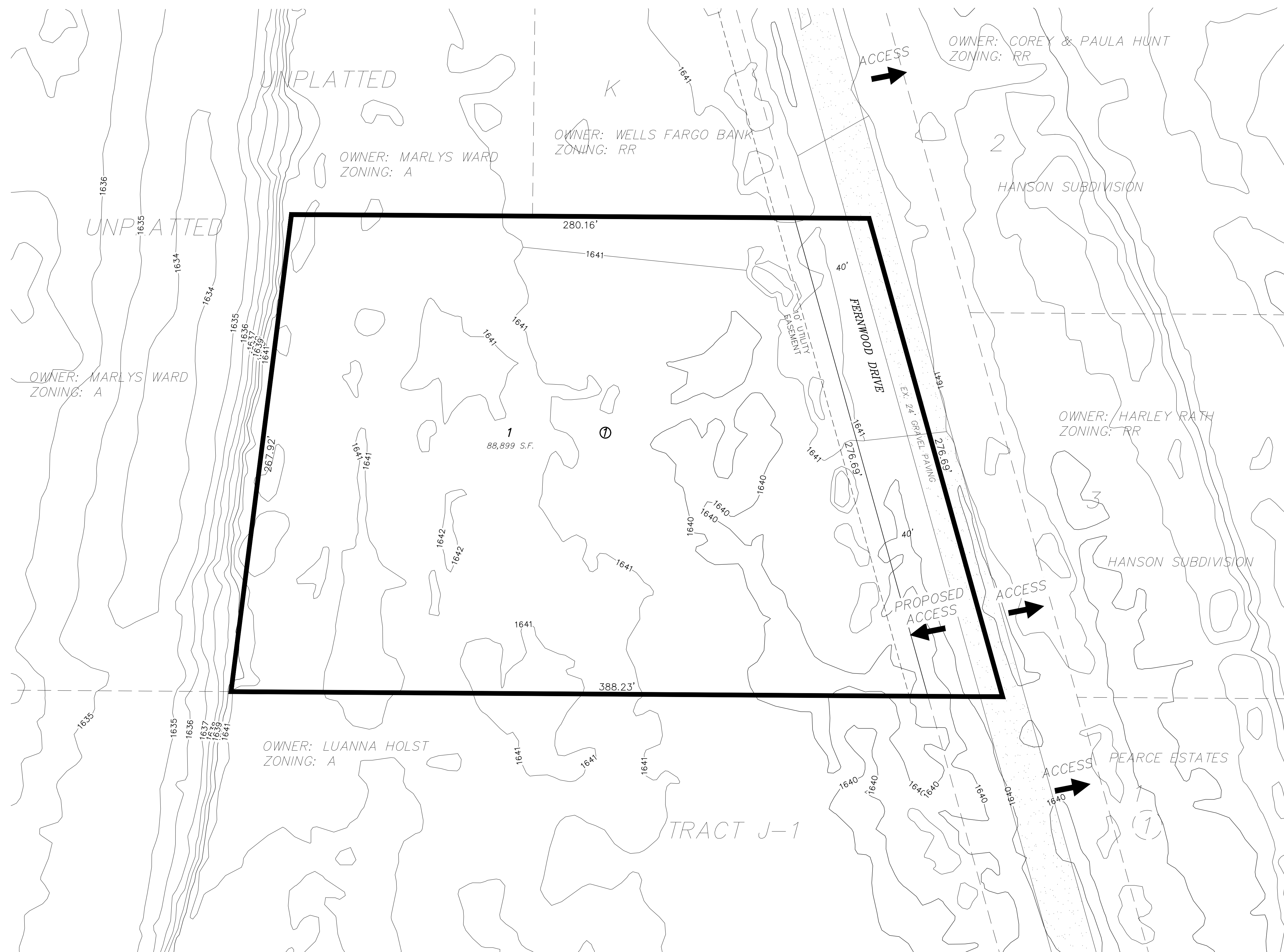
Surveying
Hydrology
Land Planning
Civil Engineering
Landscape & Site Design
Construction Management

HR SUBDIVISION

BEING AUDITOR'S LOTS M OF THE N/E 1/4 AND
AUDITOR'S LOT L OF LOT 4 OF HANSON SUBDIVISION
PART OF THE NE 1/4 OF SECTION 14, TOWNSHIP 139 NORTH, RANGE 81 WEST
BURLEIGH COUNTY, NORTH DAKOTA



LOCATION MAP

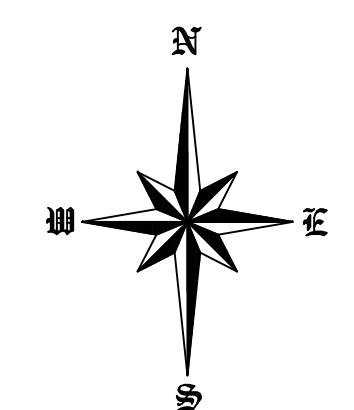


2.29 ACRES
EXISTING ZONING: A/RR
1 LOT

OWNER: WELLS FARGO BANK, N.A. AS TRUSTEE
OF THE ALLYN G. HANSON REVOCABLE
LIVING TRUST
ADDRESS: 400 E. BROADWAY AVE., SUITE 104
BISMARCK, ND 58501
TELEPHONE: (701) 222 5149

OWNER: MARLYS WARD
ADDRESS: 5550 FERNWOOD DR
BISMARCK, ND 58503

FLOODPLAIN:
FEMA FLOOD INSURANCE RATE MAP
COMMUNITY PANEL NUMBER 38015C0780D
FLOOD PLAIN ELEVATION-1640 (NAVD)
EFFECTIVE 08/04/2014



0 30' 60'
SCALE - 1" = 30'
VERTICAL DATUM: NAVD 88
JULY 17, 2017

RESOLUTION

WE, THE BOARD OF TOWNSHIP SUPERVISORS OF HAY CREEK TOWNSHIP,
BURLEIGH COUNTY, NORTH DAKOTA, HAVE BEEN ADVISED OF THE
PROPOSED PLAT AND ZONING CHANGE OF HR SUBDIVISION AND HEREBY
RECOMMEND TO THE BOARD OF CITY COMMISSIONERS THAT SAID PLAT
AND ZONING CHANGE BE (APPROVED)(DENIED). ~~WE FURTHER~~
~~RECOMMEND ACCEPTANCE OF THE RIGHTS-OF-WAY SHOWN ON SAID~~
~~PLAT~~ BY THE BURLEIGH COUNTY BOARD OF COUNTY COMMISSIONERS ON
OUR BEHALF (PLEASE ATTACH CONDITIONS, IF ANY, TO THE BOARD'S
ACTION.)

IF THE TOWNSHIP IS RECOMMENDING DENIAL, PLEASE LIST THE REASONS:

No Right of Way shown ? on Prelim map - Expecting
Rights of way to be shown on future maps.


CHAIRMAN, TOWNSHIP BOARD


ATTEST: TOWNSHIP CLERK



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

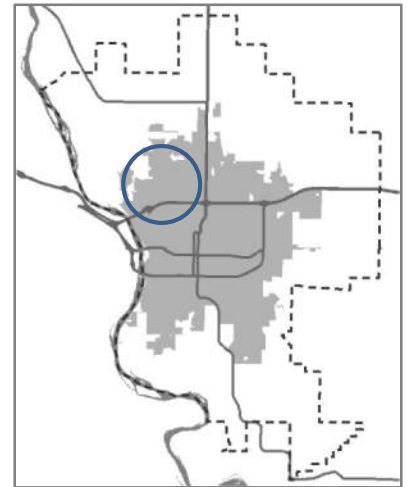
Agenda Item # 9
November 15, 2017

Application for: Zoning Change

TRAKiT Project ID: ZC2017-018

Project Summary

Title:	Lot 7, Block 3, KMK Estates
Status:	Planning & Zoning Commission – Public Hearing
Owner(s):	Scott and Kathy Allen
Project Contact:	Ken Nysether, PE, SEH
Location:	In northwest Bismarck, west of North Washington Street along the south side of Buckskin Avenue.
Project Size:	4.96 acres
Request:	Rezone property to support future single and/or two-family residential development.



Site Information

Existing Conditions

Number of Lots:	1 lot in 1 block
Land Use:	Residential
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	R5 – Residential
Uses Allowed:	R5 – Single-family residential
Max Density Allowed:	R5 – 5 units / acre

Proposed Conditions

Number of Lots:	1 lot in 1 block
Land Use:	Residential
Designated GMP Future Land Use:	Already zoned. Not in Future Land Use Plan
Zoning:	R10 – Residential
Uses Allowed:	R10 – Single and two-family residential
Max Density Allowed:	R10 – 10 units / acre

Property History

Zoned:	02/2016	Platted:	08/1966	Annexed:	09/2014
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Staff Analysis

Scott and Kathy Allen are requesting a zoning change to support future single and/or two-family residential development. The property is currently zoned R5 - Residential which only allows single-family residential

development. The R10 - Residential zoning district would give the applicant the flexibility to develop this area as either single or two-family residential. It is likely that the property will be replatted prior to further development.

(continued)

KMK Estates was platted in 1966 as a rural residential subdivision outside of the city limits. This area was annexed in September 2014 and rezoned to R5 - Residential in February 2016.

The property currently contains a single-family residence built in 1974 and an accessory structure. Both of these structures are allowable uses in both the R5 - Residential the R10 - Residential zoning districts.

At this time the applicant has not submitted a request for subdividing this lot, but has provided a preliminary concept plan for two-family residential development.

The proposed zoning change would be compatible with adjacent land uses which include single family residential to the north, east, south and west of the proposed zoning change. The property to the east and southeast is zoned R10 - Residential and developed with single-family residences.

Required Findings of Fact (relating to land use)

1. The proposed zoning change is in a developed area of the community and is outside of the Future Land Use Plan in the 2014 Growth Management Plan, as amended;
2. The proposed zoning change is compatible with adjacent land uses and zoning;
3. The City of Bismarck and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning

classification at the time the property is developed;

4. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map;
5. The zoning change is in the public interest and is not solely for the benefit of a single property owner;
6. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice; and
8. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning change from the R5 - Residential zoning district to the R10 - Residential zoning district on Lot 7, Block 3, KMK Estates.

Attachments

1. Location Map
2. Zoning and Plan Reference Map
3. Future Development Concept

Staff report prepared by: Will Hutchings, Planner
701-355-1850 | whutchings@bismarcknd.gov

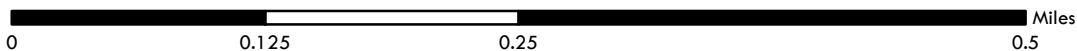
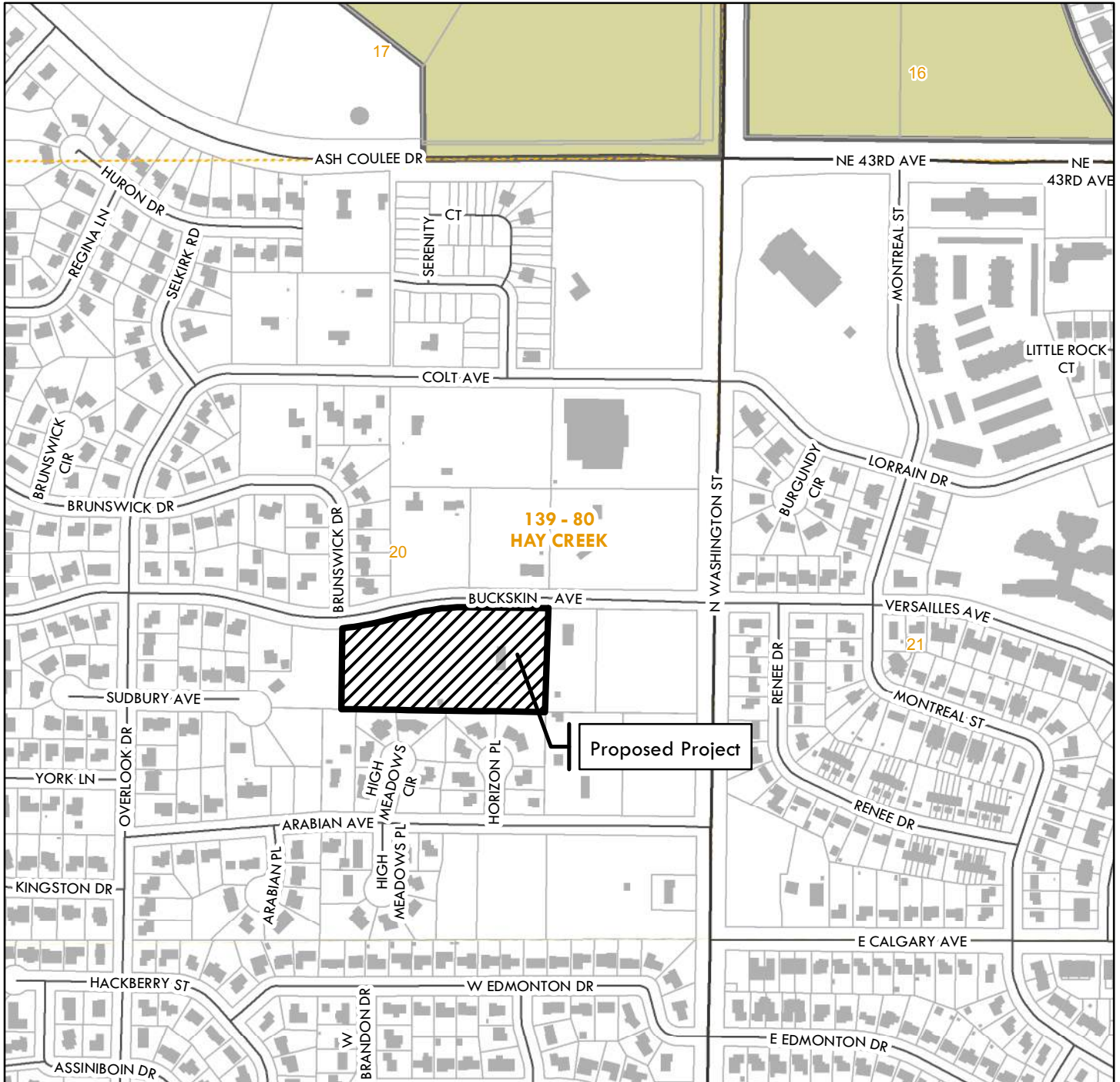


Proposed Zoning Change (R5 to R10)

Lot 7, Block 3, KMK Estates

Trakit Project ZC2017-018

Location Map

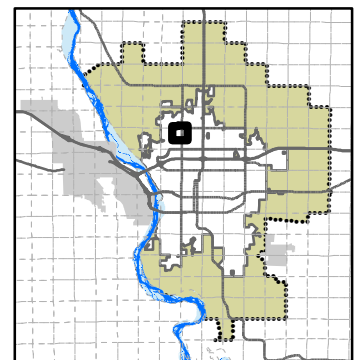


City Limits



Bismarck ETA Jurisdiction

Section, township, and range indicated in orange



City of Bismarck
Community Development Department
Planning Division
September 22, 2017 (HLB)



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Proposed Zoning Change (R5 to R10)

Lot 7, Block 3, KMK Estates

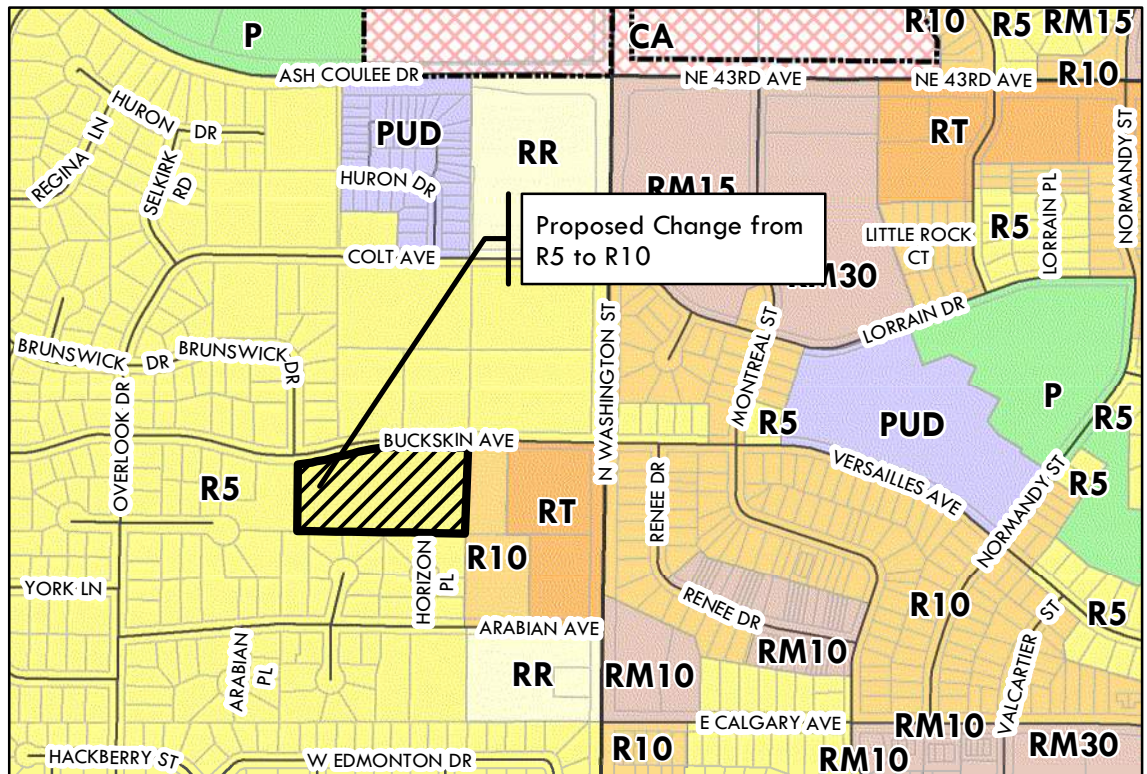
Zoning and Plan
Reference Map

-  Project Area - No Change Proposed
-  Zoning or Plan Change Proposed

Zoning Districts

A	Agriculture
RR	Rural
R5	Residential
RMH	Manufactured Home Residential
R10	Residential
RM	Residential Multifamily (Offices)
RT	Residential (Offices)
HM	Health and Medical
CA	Commercial
CG	Commercial
MA	Industrial
MB	Industrial
PUD	Planned Unit Development
DC	Downtown Core
DF	Downtown Fringe

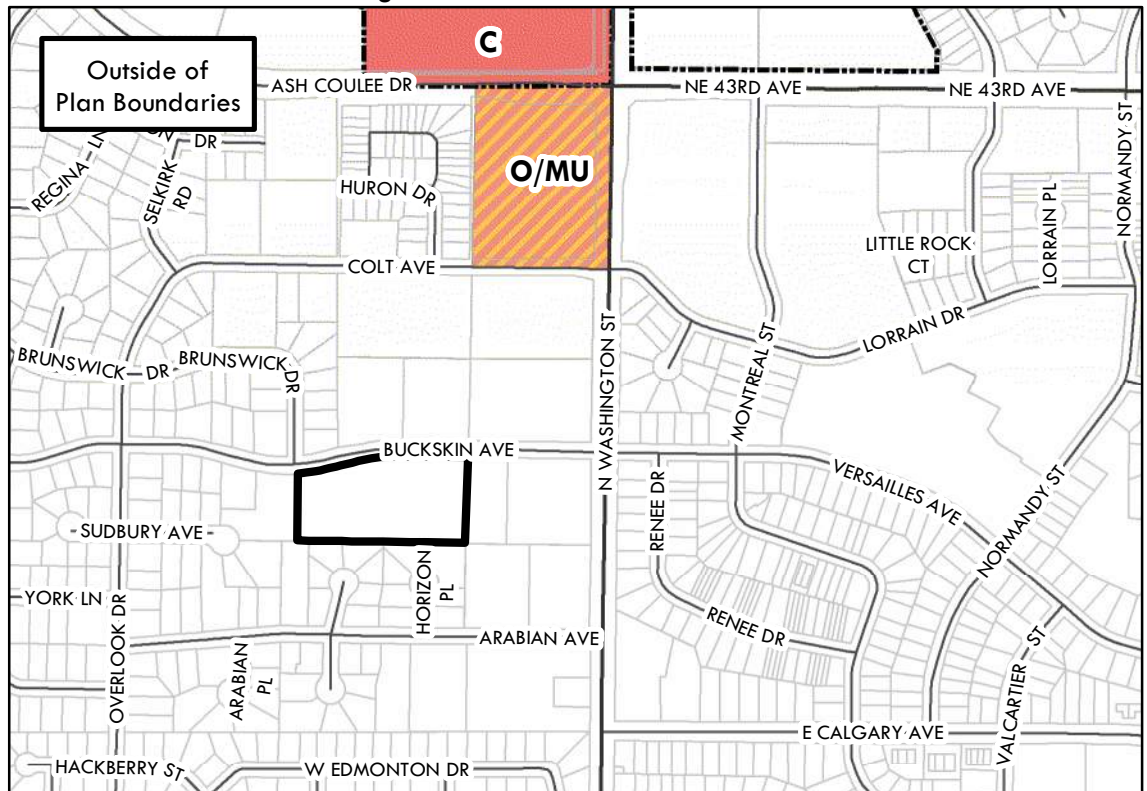
Zoning Map



Future Land Use Plan

CONSRV	Conservation
BP	Business Park
C	Commercial
C/MU	Commercial/Mixed Use
CIVIC	Civic
HDR	High Density Residential
I	Industrial
LDR	Low Density Residential
MDR	Medium Density Residential
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RR-C	Clustered Rural Residential
RR	Standard Rural Residential
UR	Urban Reserve

Future Land Use Plan and Fringe Area Road Master Plan



Fringe Area Road Master Plan

- ● ● Planned Arterial
- ● ● Planned Collector

0 0.1 0.2 0.4 Miles

 City Limits

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City of Bismarck
Community Development Dept.
Planning Division
October 16, 2017

PRELIMINARY CONCEPT

BUCKSKIN TWIN HOMES



DESCRIPTION:

LOT 7, BLOCK 3 KMK ESTATES

SEH
PHONE: 701.354.7121
4719 SHELburne ST., SUITE 6
BISMARCK, ND 58503-5677
www.sehinc.com

Date: 9/12/17



STAFF REPORT

City of Bismarck
Community Development Department
Planning Division

Agenda Item # 10
November 15, 2017

Application for: Zoning Ordinance Text Amendment

TRAKiT Project ID: ZOTA2017-011

Project Summary

Title:	Nonconforming Uses
Status:	Planning & Zoning Commission – Public Hearing
Project Contact:	Kim L. Lee, AICP, Planning Manager
Sections Amended:	Sections 14-03-09 (Nonconforming Uses)
Request:	Amend Title 14 of the City Code of Ordinances (Zoning) to allow additions to non-conforming single and two-family residences that meet certain criteria.

Staff Analysis

The City's Board of Adjustment regularly hears requests for variances from owners of single and two-family homes for additions that are in line with the existing setbacks. Many of these are before the Board of Adjustment because the residences are currently nonconforming structures by reason of setback.

The proposed amendment would allow the construction of an addition to such nonconforming structures without a variance in situations when: the nonconforming setback is not further reduced; the building separations are not further reduced; the height is not further increased; and no additional nonconforming conditions are created.

This ordinance amendment works hand-in-hand with the recently-adopted contextual front yard setback ordinance. If there are conflicting provisions between the two, the most restrictive provision would apply.

Required Findings of Fact (relating to land use)

1. The proposed text amendment would not adversely affect the public health, safety or general welfare;

2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance;
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance; and
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Staff Recommendation

Based on the above findings, staff recommends approval of the zoning ordinance text amendment for Section 14-03-09 (Nonconforming Uses) of the City Code of Ordinances, as outlined in the attached draft ordinance.

Attachments

1. Draft zoning ordinance text amendment

Staff report prepared by: Kim L. Lee, AICP, Planning Manager
701-355-1846 | klee@bismarcknd.gov

CITY OF BISMARCK

Ordinance No. XXXX

First Reading _____

Second Reading _____

Final Passage and Adoption _____

Publication Date _____

AN ORDINANCE TO AMEND AND RE-ENACT SECTIONS 14-02-03 AND 14-03-09 OF THE BISMARCK CODE OF ORDINANCES (REV.) RELATING TO NONCONFORMING USES.

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF BISMARCK, NORTH DAKOTA:

Section 1. Amendment. Section 14-04-08 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to the RT Residential District is hereby amended and re-enacted to read as follows:

14-02-03. Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

* * * * *

Nonconforming use: The use of a building or other structure or of a tract of land which does not conform to the use or regulations of this title for the district in which it is located, either at the effective date of this title, or as a result of subsequent amendments which may be incorporated into this title.

Nonconforming structure: A structure which does not conform to the regulations of this title for the district in which it is located, either at the effective date of this title or as a result of subsequent amendments which may be incorporated into this title.

* * * * *

Section 2. Amendment. Section 14-03-09 of the City of Bismarck Code of Ordinances (1986 Rev.) relating to Nonconforming Uses is hereby amended and re-enacted to read as follows:

14-03-09. Nonconforming Uses. Any lawful use of the land or buildings existing at the date of passage of this title, and located in a district in which it would not be permitted as a new use under the regulations of this title, is hereby declared to be a nonconforming use, and not in violation of this title. Provided, however, a nonconforming use shall be subject to, and the owner shall comply with the following regulations:

1. Certificate of occupancy. After the adoption of this title, the owner of a nonconforming use shall be notified, by the Building Official, of the provisions of this title. Within thirty days after receipt of said notice, the owner shall apply for and be issued a certificate of occupancy for the nonconforming use. The application for such certificate shall designate the location, nature and extent of the nonconforming use and such other details as may be necessary for the issuance of the certificate of occupancy. If the owner of a nonconforming use fails to apply for a certificate of occupancy within thirty days after receipt of the foregoing notice, the use ceases to be nonconforming and is hereby declared to be in violation of this title. The Building Official and city attorney shall take appropriate action to enjoin such violation. If the Building Official shall find, upon reviewing the application for a certificate of occupancy that the existing use is illegal or in violation of other ordinances or laws, or if he finds that the building for which the certificate is requested has been constructed or altered for the existing use or any other use without full compliance with the building code or zoning ordinance in effect at the time of construction or alteration, he shall not issue the certificate of occupancy, but shall declare such use to be in violation of this article.

2. Nonconforming Use-Extension. The nonconforming use of a building may be extended throughout any part of a building clearly designed for such use but not so used at the date of the adoption of this title. No nonconforming use may be extended to occupy any land outside the building nor any additional building not used for such nonconforming use at the date of adoption of this title. The nonconforming use of land shall not be extended to any additional land not so used at the date of the adoption of this title.

3. Nonconforming Use-Additions, repair, alteration. No building used for a nonconforming use shall be enlarged, extended, reconstructed, or structurally altered, unless the use is changed to one which complies with the provisions of this title. Provided, however, permits may be issued for the reconstruction of an existing building to be continued as a nonconforming use if the following conditions are complied with:

a. New use would decrease the number of living units or population density in case such is violated.

b. New use would decrease the automobile parking congestion in the area.

c. New use would not increase the cubical contents of the structure if such would violate provisions of this ordinance.

d. Such reconstruction would be one in accordance with the city building, plumbing, electrical codes and fire prevention code.

e. The issuance of such permit would not violate the provisions of paragraph 4 of this section.

In addition, repairs and maintenance work may be carried out each year in an amount not to exceed twenty-five percent (25%) of the assessed value of the building for that year. Such repairs and maintenance work shall not increase the cubical content of the building, nor the floor area devoted to the nonconforming use. Nor shall it increase the number of dwelling units provided in a building. Nothing in this article shall be deemed to prevent the strengthening or repair of a building which may be necessary to restore the building to a safe condition or to improve the sanitary conditions of the building, provided that such strengthening and repair may not be used to restore a building to the provisions of paragraph 4 of this section.

Alterations may be made to a nonconforming principal residential structure or any principal building in which there is a nonconforming residential use when the alteration will improve the livability thereof, provided it will not increase the number of dwelling units or the outside dimensions of the building.

Notwithstanding the foregoing provisions of this paragraph, any principal nonconforming use or structure that is located in an R5 - Residential or R10 - Residential zoning district, occupied by a single-family or two-family residence, and not subject to the provisions of the FP Floodplain overlay district, may be expanded if all of the following conditions are met:

- a. Nonconforming setbacks are not further reduced;
- b. Nonconforming building separations are not further reduced;
- c. Nonconforming height is not further increased;
- e. No additional nonconforming conditions are created.

4. Nonconforming Use-Destruction. If any nonconforming structure or any building in which there is a nonconforming use is damaged by fire, flood, explosion, wind, war or other catastrophe, in an amount equal to or greater than fifty percent (50%) of its assessed valuation, it shall not be again used or reconstructed to be used for any use except one complying with the provisions of this article for the district in which it is located.

Notwithstanding the foregoing provisions of this paragraph, any principal nonconforming use or structure devoted in whole or in part to a residential use that is damaged or destroyed by any means, to the extent of more than fifty percent (50%) of its structural value prior to the damage, that structure may be restored, repaired or rebuilt in its entirety if all of the following conditions are met:

- a. The building or structure will not occupy any portion of the lot that was not occupied by the destroyed structure;
- b. The building or structure will not have a greater floor area than the destroyed structure;
- c. The building or structure will not exceed the height or number of stories contained in the destroyed structure;

d. The number of off-street parking spaces located on the property will not be reduced from the number available before the damage; and

e. The building permit for the repair or restoration must be obtained within six (6) months of date of the damage and restoration must begin within one (1) year of the date of the damage.

5. Nonconforming Use-Moving Building. Any building in which there is a nonconforming use shall not be moved unless it is moved to a district in which the use for which the building was designed is permitted by this title. If any building in which there is a nonconforming use is moved any distance whatsoever, the building shall thereafter be used only in compliance with the provisions of this article for the district in which it is located.

6. Nonconforming Use-Change. A nonconforming use may be continued in accordance with the provisions of this section, but it shall not be changed to any other use except the one which would be permitted as a new use in the district in which the building is located.

7. Nonconforming Use-Discontinuance.

a. If for any reason a nonconforming use of land ceases for a continuous period of more than thirty (30) days, the land shall thereafter not be used except in compliance with the provisions of this article for the district in which the land is located.

b. If for any reason a nonconforming use of a building ceases for a continuous period of more than six (6) months, the building shall thereafter not be used except in compliance with the provisions of this title for the district in which the building is located.

8. Nonconforming Use-Continuance. Any legal nonconforming use, except those listed in paragraph 9 of this section, may be continued. The certificate of occupancy issued by the Building Official for a nonconforming use shall state that the use may be continued indefinitely or, for those uses listed in paragraph 9 of this section, that the use must be discontinued.

All periods of time shown below in paragraph 9 shall begin thirty-one (31) days after receipt by the owner of notice of the provisions of this title. Upon application to the board of adjustment the board may, in certain cases, extend the date of the certificate of occupancy for one period of time not to exceed the limit indicated in paragraph 9 of this section.

9. Nonconforming Use-Period of Continuance. Certain nonconforming uses, indicated in the following table shall be discontinued at the expiration of the periods of time shown, or at the expiration of one extension period, as provided in paragraph 8 of this section:

Nonconforming Use	Period of Continuance	Limit of Extension
Loam stripping	30 days	10 days
Garbage, trash dump	30 days	10 days
Livestock feeding	90 days	90 days
Junk, auto wrecking yard	180 days	30 days
Sand, gravel extraction	1 year	60 days
Other open uses of land	1 year	90 days

(Ord. 5728, 05-26-09; Ord. 5901, 06-26-12)

* * * * *

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect following final passage, adoption and publication.

**BISMARCK PLANNING & ZONING COMMISSION
MEETING MINUTES
October 25, 2017**

The Bismarck Planning & Zoning Commission met on October 25, 2017, at 5:00 p.m. in the Tom Baker Meeting Room in the City-County Office Building, 221 North 5th Street. Chairman Yeager presided.

Commissioners present were Tom Atkinson, Susan Axvig, Brian Bitner, Mike Donahue, Vernon Laning, Gabe Schell, Mike Schwartz, Mike Seminary and Wayne Yeager.

Commissioners Doug Lee and Lisa Waldoch were absent.

Staff members present were Carl Hokenstad – Director of Community Development, Kim Lee – Planning Manager, Will Hutchings – Planner, Jenny Wollmuth – Planner, Daniel Nairn – Planner, Hilary Balzum – Community Development Administrative Assistant and Jason Hammes – Assistant City Attorney.

MINUTES

Chairman Yeager called for consideration of the minutes of the September 27, 2017 meeting.

MOTION: Commissioner Donahue made a motion to approve the minutes of the September 27, 2017 meeting, as presented. Commissioner Atkinson seconded the motion and it was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Laning, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

CONSIDERATION

- A. LOT 7, BLOCK 3, KMK ESTATES – ZONING CHANGE**
- B. PART OF LOT 15, BLOCK 2, SOUTHWOOD TERRACE – ZONING CHANGE**
- C. LANDSCAPING AND SCREENING – ZONING ORDINANCE TEXT AMENDMENT**
- D. NONCONFORMING USES – ZONING ORDINANCE TEXT AMENDMENT**

Chairman Yeager called for consideration of the following consent agenda items:

- A. Lot 7, Block 3, KMK Estates – Zoning Change
- B. Part of Lot 15, Block 2, Southwood Terrace – Zoning Change
- C. Landscaping and Screening – Zoning Ordinance Text Amendment
- D. Nonconforming Uses – Zoning Ordinance Text Amendment

MOTION: Based on the findings contained in the staff reports, Commissioner Bitner made a motion to approve consent agenda items A, B, C and D, granting

tentative approval or calling for public hearings on the items as recommended by staff. Commissioner Laning seconded the motion and it was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Laning, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

PUBLIC HEARING – FINAL PLAT FETZER ESTATES SUBDIVISION

Chairman Yeager called for the public hearing on the final plat for Fetzer Estates Subdivision. The proposed plat is one lot in one block on 6.77 acres and is located south of Bismarck, along the east side of University Drive/Highway 1804 across from the University of Mary campus (Auditor's Lot A less 1804 right-of-way in the NW1/4 of Section 35, T138N-R80W/Lincoln Township).

Mr. Nairn gave an overview of the request, including the following findings related to land use:

1. All technical requirements for approval of a final plat have been met.
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
4. The stormwater management plan for the subdivision has been approved by the City Engineer, with written concurrence of the County Engineer
5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts. If any of the property is developed as residential, the requirements of the neighborhood parks and open space policy would be applied.
6. The proposed subdivision plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision.
7. The City of Bismarck, Burleigh County, and/or other agencies and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed.
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development.

9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Mr. Nairn said, based on the findings contained in the staff report, staff recommends approval of the final plat for Fetzer Estates Subdivision, with the following conditions: 1. Conformance with airport height restrictions is verified prior to issuance of a building permit; and 2. The applicant is notified in writing by the Community Development Department that the City recommends a geotechnical study to assess the structural stability of any development on or near the top of the bluff, and that the City recommends the avoidance of any disturbance of the bluff that could result in erosion or subsidence.

Chairman Yeager opened the public hearing.

Michael Brown, 615 Raymond Street, said his family has owned property in this area for many years and McDonald Road was named for his grandfather. He said they still own the portion of land to the northeast of the proposed subdivision and it appears this owner would access their property from McDonald Road. He said from what he understood, the previous owner wanted to subdivide the property and build three houses but they were told they would have to build and pave McDonald Road according to the requirements set forth by Burleigh County.

Mr. Nairn said it is likely that the completion and surfacing of McDonald Road up to the north lot line of Fetzer Estates Subdivision would be required and that the Burleigh County Commission would make that decision.

Mr. Brown said there is currently no signage, that he understands McDonald Road is a public road by prescription, but he would like to know if the completion of the road would include signage, speed limits or any other preparations.

Commissioner Bitner said all of those items listed by Mr. Brown would have to be included in any improvements before the Burleigh County Commission would accept the right-of-way for McDonald Road dedicated within the plat of Fetzer Estates Subdivision.

Mr. Brown said nobody seems to know what the exact status of the road is, that he sought legal counsel with no success and was eventually advised by Burleigh County Sheriff Pat Heinert to speak with the Burleigh County Engineer, Marcus Hall. He said he would like to be included on any follow-up information.

Commissioner Bitner said he will look into it further and have Burleigh County staff be in contact with Mr. Brown.

Landon Niemiller, Swenson, Hagen & Co., said they intend to forward this request to the Burleigh County Commission after City Commission approval for acceptance of the right-of-way. He added that he spoke with the owner regarding the road and its boundaries and they fully intend to pave the applicable portion of McDonald Road, and a 40-foot right-of-way dedication is shown on the proposed plat.

There being no further comments, Chairman Yeager closed the public hearing.

Commissioner Bitner asked why the owner is different from the applicant for this request.

Mr. Niemiller explained that the applicant at the time the application was submitted just purchased the property from the previous owner this last week.

Commissioner Schell asked if the conditions of the approval have been communicated to the owner. Mr. Nairn said it was communicated to their consultant and that they will also receive a letter with the information from this meeting, including the conditions of the approval. He said he also discussed the slope of the property with the owner early on, so they are aware that there is some concern regarding that.

Commissioner Bitner said his son owns property in close proximity to this plat and there is a significant groundwater issue in the area. He said they had to excavate the property in order to intercept the water and would like this owner to be made aware of that as well.

MOTION: Based on the findings contained in the staff report, Commissioner Laning made a motion to approve the final plat for Fetzer Estates Subdivision, with the following conditions: 1. Conformance with airport height restrictions is verified prior to issuance of a building permit; and 2. The applicant is notified in writing by the Community Development Department that the City recommends a geotechnical study to assess the structural stability of any development on or near the top of the bluff, and that the City recommends the avoidance of any disturbance of the bluff that could result in erosion or subsidence. Commissioner Atkinson seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Laning, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

Hay Creek Township Supervisor Mark Gaydos joined the meeting at this time.

PUBLIC HEARINGS – ZONING CHANGE AND FINAL PLAT RBK VENTURES SUBDIVISION

Chairman Yeager called for the public hearing on the final plat and the zoning change from the A-Agricultural zoning district to the Conditional MA-Industrial zoning district for RBK Ventures Subdivision. The proposed plat is one lot in one block on 22.37 acres and is located north of Bismarck, along the south side of 71st Avenue NE approximately ½ mile

east of US Highway 83 (part of Auditor's Lot B of the NE¼ of Section 10, T139N-R80W/Hay Creek Township).

Ms. Lee gave an overview of the requests, including the following findings related to land use for the zoning change:

1. The proposed zoning change is in a developed portion of the community and is outside of the area covered by the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed zoning change is compatible with adjacent land uses and zoning.
3. The City of Bismarck, Burleigh County, and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the new zoning classification at the time the property is developed.
4. The Hay Creek Township Board of Supervisors has been notified of the proposed zoning change but has not yet made a recommendation.
5. The proposed zoning change is justified by a change in conditions since the previous zoning classification was established or by an error in the zoning map.
6. The zoning change is in the public interest and is not solely for the benefit of a single property owner.
7. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance.
8. The proposed zoning change is consistent with the master plan, other adopted plans, policies and accepted planning practice.
9. The proposed zoning change would not adversely affect the public health, safety, and general welfare.

Ms. Lee then gave the findings related to land use for the final plat:

1. All technical requirements for approval of a final plat have been met.
2. The final plat generally conforms to the preliminary plat for the proposed subdivision that was tentatively approved by the Planning and Zoning Commission.
3. The proposed subdivision generally conforms to the 2014 Fringe Area Road Master Plan, as amended.
4. The requirement to provide a stormwater management plan has been waived by the City Engineer with written concurrence from the County Engineer, with the understanding that

a full storm water management plan will need to be submitted and approved prior to any lot modification or development of the property.

5. The provision of neighborhood parks and open space is not needed because the proposed final plat is not an urban subdivision with residential zoning districts.
6. The Hay Creek Township Board of Supervisors has been notified of the proposed plat, but has not yet made a recommendation.
7. The City of Bismarck, Burleigh County and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed subdivision at the time the property is developed.
8. The proposed subdivision is not located within the Special Flood Hazard Area (SFHA), also known as the 100-year floodplain, an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or an area that is topographically unsuited for development.
9. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance.
10. The proposed subdivision is consistent with the master plan, other adopted plans, policies and accepted planning practice.
11. The proposed subdivision would not adversely affect the public health, safety and general welfare.

Ms. Lee said, based on the above findings, staff recommends approval of the zoning change from the A – Agricultural zoning district to the Conditional MA – Industrial zoning district and the final plat for RBK Ventures Subdivision.

Commissioner Seminary asked if the approval of these requests would be contingent upon the resolution of the issue with North 19th Street.

Ms. Lee said they are asking for an overall approval, as it is understood by staff at this time that the road issue is currently being resolved.

Commissioner Seminary asked if approving these requests might have any unintended consequences.

Ms. Lee said it could potentially happen that the east half of North 19th Street would be built as a rural road section over the 40-feet dedicated with this plat, and once more development takes place to the west, it would be improved at that time.

Commissioner Schell said there is a concern with the access point at 71st Avenue NE, adding that they are comfortable with the access if it is only for the seasonal sale of

fireworks with shared access. He said the construction of a continuation of North 19th Street would probably not happen if there is further development in the area and until a solution for North 19th Street is determined.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

Mr. Gaydos said information was circulated to adjacent property owners and no comments were received. He said the Hay Creek Township Board of Supervisors supports the recommendation as presented by staff.

Commissioner Bitner asked how the concept of this development is in line with the City Code of Ordinances. Ms. Lee said that conditional zonings are used often in the City; conditions can be added make the requirements more restrictive, but not less. She said the conditions would only apply to this property.

MOTION: Based on the findings contained in the staff report, Commissioner Seminary made a motion to approve the zoning change from the A – Agricultural zoning district to the Conditional MA – Industrial zoning district and the final plat for RBK Ventures Subdivision. Commissioner Laning seconded the motion and the requests were unanimously approved with Mr. Gaydos and Commissioners Atkinson, Axvig, Bitner, Donahue, Laning, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

PUBLIC HEARING – MAJOR PUD AMENDMENT MISTY WATERS

Chairman Yeager called for the public hearing on a City-initiated PUD amendment for Misty Waters to allow two-unit buildings within the PUD to be either two-unit rowhouses (twinhomes) or two-unit condominiums. The property is located northwest of Bismarck, west of River Road along the west side of Burnt Creek Loop.

Ms. Lee gave an overview of the request, indicating that staff was attempting to correct an oversight in the last amendment approved in 2006. However, the proposed amendment and associated location map caused concern by some owners. She clarified that the number and location of two family units are not changing, this amendment would simply change how they could be owned.

Ms. Lee gave an overview of the request, including the following findings related to land use:

1. The proposed amendment generally conforms to the Future Land Use Plan in the 2014 Growth Management Plan, as amended.
2. The proposed amendment is compatible with adjacent land uses and zoning.

3. The City of Bismarck, Burleigh County and other agencies would be able to provide necessary public services, facilities and programs to serve any development allowed by the proposed amendment at the time the property is developed.
4. The Hay Creek Township Board of Supervisors has recommended approval of the PUD amendment pending notification of neighbors.
5. The proposed amendment is in the public interest and is not solely for the benefit of a single property owner.
6. The character and nature of the amended planned unit development contains a planned and coordinated land use or mix of land uses that are compatible and harmonious with the area in which it is located.
7. The amended planned unit development would preserve the natural features of the site insomuch as possible, including the preservation of trees and natural drainage ways.
8. The internal roadway circulation system within the amended planned unit development has been adequately designed for the type of traffic that would be generated.
9. Adequate buffer areas have been provided between the amended planned development and adjacent land uses, if needed, to mitigate any adverse impact of the planned unit development on adjacent properties.
10. The proposed amendment is consistent with the general intent and purpose of the zoning ordinance.
11. The proposed amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.
12. The proposed amendment would not adversely affect the public health, safety, and general welfare.

Ms. Lee said, based on the findings contained in the staff report, staff recommends approval of the major Planned Unit Development (PUD) amendment for Misty Waters, as outlined in the draft amendment document.

Chairman Yeager opened the public hearing.

Mr. Gaydos said Hay Creek Township did receive some e-mails with comments of concern relating to the possibility of property values being decreased if this change is approved, as well as some confusion relating to the map provided. He said he believes these have all been resolved and is supportive of the recommendation of staff to approve the request. Comments provided to Hay Creek Township are attached as Exhibit A.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Seminary made a motion to recommend approval of the major Planned Unit Development (PUD) amendment for Misty Waters, as outlined in the draft PUD amendment document. Commissioner Laning seconded the motion and the request was unanimously approved with Mr. Gaydos and Commissioners Atkinson, Axvig, Bitner, Donahue, Laning, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

**PUBLIC HEARING – SPECIAL USE PERMIT (ACCESSORY BUILDING)
LOT 3, BLOCK 5, SPIRITWOOD ESTATES**

Chairman Yeager called for the public hearing on a request for a special use permit to increase the total area of accessory buildings to 2,760 square feet on Lot 3, Block 5, Spiritwood Estates (421 Sheehan Road). The property is located south of Bismarck, west of South Washington Street and north of 48th Avenue SW, along the south side of Sheehan Road.

Ms. Wollmuth gave an overview of the request, including the following findings related to land use:

1. The proposed special use complies with all applicable provisions of the zoning ordinance and is consistent with the general intent and purpose of the zoning ordinance.
2. The proposed special use is compatible with adjacent land uses and zoning.
3. The proposed special use would be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.
4. Adequate public facilities and services are in place or would be provided at the time of development.
5. The proposed special use would not cause a negative cumulative effect, when considered in conjunction with other uses in the immediate vicinity.
6. Adequate measures have been or would be taken to minimize traffic congestion in the public streets and to provide for appropriate on-site circulation of traffic.
7. The proposed special use permit is consistent with the master plan, other adopted plans, policies and accepted planning practice.
8. The proposed special use would not adversely affect the public health, safety and general welfare.

Ms. Wollmuth said, based on the findings contained in the staff report, staff recommends approval of the special use permit to increase the total area of accessory buildings for Lot 3, Block 5, Spiritwood Estates to 2,760 square feet.

Commissioner Schell asked why the zoning ordinance accounts for the overhang to be included in the total square footage of an accessory building. Ms. Wollmuth said the overhang is considered part of the footprint because it easier to enclose an overhang, which would then add to the square footage of the structure.

Chairman Yeager opened the public hearing.

Terry Elsberry, 421 Sheehan Road, said they knew the maximum allowable square footage of accessory buildings in their zoning district was 2,400 square feet, but they did not realize that had to include the overhang. He said they are in need of more parking space for their vehicles as well as a shaded place to be outside in the summer.

There being no further comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Donahue made a motion to approve the special use permit to increase the total area of accessory buildings for Lot 3, Block 5, Spiritwood Estates to 2,760 square feet. Commissioner Bitner seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Laning, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT SECTION 14-03-08 RELATING TO SPECIAL USES/ASPHALT AND CONCRETE PRODCUTION FACILITIES

Chairman Yeager called for the continued public hearing on a zoning ordinance text amendment relating to special uses/asphalt and concrete production facilities.

Ms. Lee explained that the Planning and Zoning Commission continued action on the proposed amendment at their meeting on September 27th. The language on reduced setback requirements for temporary concrete production facilities has been removed, as requested by the Planning and Zoning Commission. She said the remaining changes clarify how setbacks are measured and that neither temporary or permanent concrete production facilities are a special use in the MA – Industrial zoning district. She added that as such facilities are already a permitted use in the MA – Industrial zoning district, they are currently erroneously included as a special use in that same zoning district.

Ms. Lee then gave the following findings:

1. The proposed text amendment would not adversely affect the public health, safety or general welfare.

2. The proposed text amendment is justified by a change in conditions since the zoning ordinance was originally adopted or clarifies a provision that is confusing, in error or otherwise inconsistent with the general intent and purpose of the zoning ordinance.
3. The proposed text amendment is consistent with the general intent and purpose of the zoning ordinance.
4. The proposed text amendment is consistent with the master plan, other adopted plans, policies and accepted planning practice.

Ms. Lee said, based on the findings in the staff report, staff recommends approval of the zoning ordinance text amendment for Sections 14-03-08 (Special Uses) of the City Code of Ordinances, as presented.

Commissioner Laning asked if approving this amendment would create any problems for permanent concrete plants. Ms. Lee said a permanent concrete plant is an allowable industrial use in the applicable zoning districts, so they could potentially be closer than half a mile from an adjacent use. She said this change only applies to temporary facilities.

Chairman Yeager opened the public hearing.

There being no comments, Chairman Yeager closed the public hearing.

MOTION: Based on the findings contained in the staff report, Commissioner Donahue made a motion to recommend approval of the zoning ordinance text amendment for Sections 14-03-08 (Special Uses) of the City Code of Ordinances, relating to special uses/asphalt and concrete production facilities, as presented. Commissioner Axvig seconded the motion and the request was unanimously approved with Commissioners Atkinson, Axvig, Bitner, Donahue, Laning, Schell, Schwartz, Seminary and Yeager voting in favor of the motion.

OTHER BUSINESS

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business, Chairman Yeager declared the Bismarck Planning & Zoning Commission adjourned at 5:40 p.m. to meet again on November 15, 2017.

Respectfully submitted,

Hilary Balzum
Recording Secretary

Wayne Yeager
Chairman

DRAFT

From HAY CREEK TOWNSHIP, Dave Pearce notes

Mr. Chairman - Members of the Commission. My name is Dave Pearce. I represent and am one of the three Supervisors for Hay Creek Township. I apologize for not being with you in person - I can share this information for RBK and Misty Waters PUD Amendment relative to the Township.....

RE: #7 RBK Ventures Subdivision

From: [Kim Lee](#), **Sent:** Wednesday, October 18, 2017 5:31 PM, **To:** [DTP](#), **Cc:** [Hilary Balzum](#)
Subject: RBK Ventures Subdivision

Dave –

We did not receive a recommendation from Hay Creek Township for RBK Ventures Subdivision. The proposed plat is along the south side of 71st Avenue NE between JMAC Addition and the DMVW RR tracks – the former Nagel property.

A letter was sent to you last spring, but we never received a response. It is on the Planning and Zoning Commission agenda for approval on Wednesday.

Information is attached and packets will go out in tomorrow's mail.

Did the Board ever take a position on this one?

HAYCREEK RESPONSE

From: DTP haycreektownship@aol.com **Sent:** Wednesday, October 18, 2017 8:33:24 PM **To:** Kim Lee
Subject: RE: RBK Ventures Subdivision

Kim:

I checked our minutes. We noted the RBK Sub in the Minutes of our April 4th Meeting and at that time we circulated the Letter from the City. I remember receiving no comments, and have since heard nothing from other members.

While I can't sign and seal a Resolution without Board approval, I can forward to you the Board has recorded no positive or negative comments regarding this zoning change. **We supported the Staff recommendation.**

Neighbors have been notified.

Re: Misty Waters PUD

RECEIVED: On Oct 11, 2017, at 10:59 AM, Kent Fetzer <kfetzer@bis.midco.net> wrote:

HCT Board of Supervisors,

Thank you for the PUD amendment notification. With the limited information contained in the notice, I believe the proposal could impact values of single family units in Misty Waters Development.

Kent Fetzer

3304 Bayshore Bend SE

Mandan, ND 58554

701.400.1434

RESPONDED: To: Kent Fetzer <kfetzer@bis.midco.net>; shellyhegel@hotmail.com; msgnfm@btinet.net; taralabrador@bis.midco.net; speterson2202@gmail.com; Kim Lee <klee@bismarcknd.gov>

Subject: Re:

Thanks for your note.

I assume, you believe it will be a negative impact?

I will share this with our board and include it with our written comments to Board members.

Sent by Dave Pearce-----

RECEIVED:

Dear Mr. Pearce,

My name is Cathy Gossett and my husband Dale and I live in Misty Waters and received a letter in the mail yesterday (10-12-17) that was postmarked 10-10-2017, informing us that a PUD concerning Misty Waters had been approved at the September 27, 2017 Bismarck City Commission Meeting. If I am reading the material correctly, the already approved PUD allows for up to 15, two family residential units to built in our development willy nilly on lots that were meant for single family homes??

If this is indeed the case, we have a MAJOR concern about this.

We would appreciate a reply from you regarding this issue as soon as possible.

Sincerely, Dale and Cathy Gossett, 701-226-2567, 701-471-4550

RESPONDED:

Cathy:

Cathy- Thanks for responding to our mailing. If you'll read the letter more closely... What was approved was the first reading and forwarding of this NEW LANGUAGE to the October meeting and PUBLIC HEARING scheduled for next week with City Planning and Zoning.

Your Township Board thought there might be issues regarding this new language and therefor shared the letter. According to law- you'll receive notice- another letter from the city with the same information next week.

At any rate the City Planning and Zoning Committee meets next week Wednesday at 5:00 PM in the Tom Baker Meeting Room and that's the meeting where your concerns should be expressed. The City Planning and Zoning Committee approves or denies the amendment and then makes recommendation to the City Commission who would/could pass final approval in November.

Dave Pearce, Hay Creek Township Board-----

CLARIFICATION FROM KIM LEE: (shared with above)

Just for clarification, two-family dwellings are already allowed in this portion of the development. The change to the PUD would allow those two-family dwelling to be twinhomes (with ownership of the land under each half) or two-unit condos (with common ownership of the underlying land). The appearance will be the same and the two-family dwellings are only allowed in specific locations within the PUD.

The City's notification to adjacent property owners will be mailed on Friday.

Please let me know if you any questions or need any additional information.

Kim L. Lee, AICP

There seem to be concerns or confusion among current home owners. If these concerns or confusion are addressed to the satisfaction of the homeowners- I believe the Township would support Staff recommendation. Otherwise, I believe the Township would support the majority home owner position.

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 10/2017

*****City*****

*****ETA*****

	10/2017		10/2016		10/2017		10/2016	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
SINGLE FAMILY DETACHED	16	\$3,668,121.46	14	\$3,417,156.63	2	\$1,175,320.50	5	\$1,412,082.50
ROWHOUSE (2) 1-HR FIRE SEPARATION	6	\$817,739.10	0	\$0.00	2	\$488,505.30	0	\$0.00
FIVE OR MORE FAMILY	1	\$4,420,000.00	0	\$0.00	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	2	\$0.00	7	\$0.00	0	\$0.00	0	\$0.00
INDUSTRIAL BUILDINGS	1	\$79,900.00	0	\$0.00	1	\$45,000.00	0	\$0.00
SCHOOLS & EDUCATIONAL	1	\$750,000.00	0	\$0.00	0	\$0.00	0	\$0.00
OTHER NEW	1	\$290,000.00	1	\$74,200.00	0	\$0.00	0	\$0.00
ROOM ADDITIONS	0	\$0.00	2	\$84,178.50	1	\$90,793.50	2	\$79,035.00
RESIDENTIAL GARAGES	5	\$41,792.00	5	\$31,424.00	5	\$117,408.00	6	\$116,288.00
DECKS PORCHES & COVERED PATIOS	24	\$123,707.50	24	\$57,337.50	1	\$3,000.00	4	\$11,775.00
SWIMMING POOLS & SPAS	1	\$46,404.00	1	\$67,000.00	0	\$0.00	1	\$59,864.00
OTHER	5	\$126,700.00	6	\$87,600.00	1	\$31,000.00	0	\$0.00
HOME OCCUPATION	0	\$0.00	1	\$0.00	1	\$0.00	0	\$0.00
STORAGE SHEDS	3	\$8,160.00	1	\$2,100.00	0	\$0.00	0	\$0.00
BASEMENT FINISH	7	\$48,630.50	6	\$33,336.75	1	\$2,375.00	2	\$7,619.00
COMMERCIAL BUILDINGS	18	\$1,902,355.95	15	\$17,681,826.00	1	\$3,000.00	7	\$1,579,750.00
COMMERCIAL	2	\$0.00	3	\$0.00	0	\$0.00	0	\$0.00
MISC TEMPORARY STRUCTURES	1	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	15	\$84,103.20	4	\$37,000.00	0	\$0.00	0	\$0.00
Total	109	\$12,407,613.71	91	\$21,573,159.38	16	\$1,956,402.30	27	\$3,266,413.50

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 10/2017

*****City*****

*****ETA*****

	10/2017		10/2016		10/2017		10/2016	
Trade Permit Type	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC	95	\$500.00	108	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	154	\$2,873,776.33	121	\$1,459,162.00	36	\$292,858.00	24	\$148,797.00
BUILDING MECHANICAL ALTERATION	0	\$0.00	1	\$2,600.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL HVAC APPLIANCE	0	\$0.00	0	\$0.00	0	\$0.00	1	\$9,500.00
BUILDING MECHANICAL WATER HEATER	0	\$0.00	1	\$913.00	0	\$0.00	0	\$0.00
BUILDING PLUMBING	50	\$1,865,402.00	69	\$1,608,198.00	9	\$104,500.00	5	\$76,704.11
BUILDING SEPTIC	0	\$0.00	0	\$0.00	10	\$5,500.00	11	\$0.00
Total	299	\$4,739,678.33	300	\$3,070,873.00	55	\$402,858.00	41	\$235,001.11

PERMIT ACTIVITY REPORT - MTD
DATE SELECTION 10/2017

	*****City*****		*****ETA*****	
	10/2017	10/2016	10/2017	10/2016
Living Units	Units	Units	Units	Units
OTHER NEW	0	0	0	0
FIVE OR MORE FAMILY	60	0	0	0
OTHER NEW	0	0	0	0
MANUFACTURED HOMES	2	7	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	6	0	1	0
SINGLE FAMILY DETACHED	16	14	2	5
Total	84	21	3	5

PERMIT ACTIVITY REPORT - YTD
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	10/2017		10/2016		10/2017		10/2016	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
SINGLE FAMILY DETACHED	169	\$34,186,053.50	202	\$41,476,696.55	40	\$11,261,375.11	32	\$8,452,339.18
ROWHOUSE (2) 1-HR FIRE SEPARATION	92	\$15,648,879.30	125	\$19,324,552.50	2	\$488,505.30	0	\$0.00
ROWHOUSE	0	\$0.00	6	\$576,000.00	0	\$0.00	0	\$0.00
2-UNIT DUPLEX OR CONDO	0	\$0.00	6	\$1,050,342.00	0	\$0.00	0	\$0.00
FIVE OR MORE FAMILY	1	\$4,420,000.00	2	\$8,036,000.00	0	\$0.00	0	\$0.00
MANUFACTURED HOMES	35	\$0.00	52	\$0.00	0	\$0.00	0	\$0.00
MOBILE HOME	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
MOBILE HOME EXTRAS	0	\$0.00	1	\$1,800.00	0	\$0.00	0	\$0.00
HOTELS	1	\$7,000,000.00	1	\$2,500.00	0	\$0.00	0	\$0.00
NON-STRUCTURAL DEVELOPMENT	2	\$0.00	4	\$110,000.00	0	\$0.00	0	\$0.00
AMUSEMENT & RECREATION	0	\$0.00	1	\$125,750.00	0	\$0.00	0	\$0.00
CHURCHES & RELIGIOUS	0	\$0.00	1	\$99,622.00	0	\$0.00	0	\$0.00
INDUSTRIAL BUILDINGS	2	\$2,579,900.00	16	\$3,008,830.00	1	\$45,000.00	0	\$0.00
HOSPITALS & INSTITUTIONAL	0	\$0.00	4	\$155,000.00	0	\$0.00	0	\$0.00
OFFICE; BANK; & PROFESSIONAL BUILDINGS	1	\$70,565.00	5	\$3,280,139.00	0	\$0.00	0	\$0.00
SCHOOLS & EDUCATIONAL	2	\$7,597,730.00	2	\$3,265,847.00	0	\$0.00	1	\$18,000,000.00
RETAIL SALES	1	\$55,000.00	5	\$2,488,600.00	0	\$0.00	0	\$0.00
OTHER NEW	4	\$3,367,983.00	4	\$427,120.70	0	\$0.00	0	\$0.00
ROOM ADDITIONS	18	\$489,772.88	26	\$966,246.00	16	\$1,047,062.50	20	\$700,845.25
RESIDENTIAL GARAGES	70	\$634,702.40	66	\$725,624.02	76	\$1,757,060.00	71	\$1,499,892.00
DECKS PORCHES & COVERED PATIOS	227	\$754,857.50	208	\$703,808.52	30	\$131,167.50	29	\$114,450.00
SWIMMING POOLS & SPAS	7	\$423,824.85	9	\$586,969.70	6	\$492,631.00	6	\$332,274.00
OTHER	60	\$1,526,512.67	64	\$1,484,732.98	13	\$546,410.08	8	\$219,100.00
HOME OCCUPATION	7	\$0.00	4	\$0.00	1	\$0.00	0	\$0.00

**PERMIT ACTIVITY REPORT - YTD
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	10/2017		10/2016		10/2017		10/2016	
Census Code	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
STORAGE SHEDS	21	\$60,360.00	21	\$61,898.00	3	\$8,772.00	10	\$156,024.00
BASEMENT FINISH	111	\$529,304.50	126	\$625,143.25	26	\$167,781.50	39	\$212,783.85
COMMERCIAL BUILDINGS	162	\$78,233,042.64	181	\$91,333,942.00	17	\$1,485,274.00	19	\$2,403,350.00
OFFICE BUILDINGS	1	\$15,000.00	1	\$7,500.00	0	\$0.00	0	\$0.00
PUBLIC BUILDING	1	\$350,000.00	0	\$0.00	0	\$0.00	0	\$0.00
MULTI-FAMILY TO SINGLE-FAMILY	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
RESIDENTIAL	5	\$0.00	4	\$0.00	1	\$0.00	0	\$0.00
COMMERCIAL	8	\$0.00	5	\$0.00	0	\$0.00	0	\$0.00
FIREWORKS SALES	0	\$0.00	0	\$0.00	11	\$0.00	13	\$0.00
NURSERY STOCK SALES	6	\$0.00	5	\$0.00	0	\$0.00	0	\$0.00
MISC TEMPORARY STRUCTURES	11	\$0.00	17	\$0.00	0	\$0.00	0	\$0.00
NEW SIGN PERMITS	78	\$729,609.71	85	\$802,138.55	0	\$0.00	0	\$0.00
SIGN ALTERATION	9	\$72,037.00	11	\$128,349.04	0	\$0.00	0	\$0.00
ELECTRONIC MESSAGE CENTER	1	\$65,438.00	0	\$0.00	0	\$0.00	0	\$0.00
Total	1113	\$158,810,572.95	1272	\$180,855,151.81	243	\$17,431,038.99	248	\$32,091,058.28

**PERMIT ACTIVITY REPORT - YTD
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	10/2017		10/2016		10/2017		10/2016	
Permit Type	Permits	Valuations	Permits	Valuations	Permits	Valuations	Permits	Valuations
BUILDING ELECTRIC	888	\$55,600.00	172	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC ALTERATION	0	\$0.00	469	\$661,651.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC NEW RESIDENTIAL	0	\$0.00	271	\$7,000.00	0	\$0.00	0	\$0.00
BUILDING ELECTRIC SERVICE UPGRADE	2	\$0.00	170	\$35.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL ACCESSORY	0	\$0.00	21	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL ELEVATOR	0	\$0.00	15	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL HVAC APPLIANCE	0	\$0.00	13	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL NEW COMMERCIAL	0	\$0.00	109	\$276,870.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL POOL	0	\$0.00	6	\$0.00	0	\$0.00	0	\$0.00
BUILDING ELECTRICAL SIGN	0	\$0.00	1	\$0.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL	1230	\$14,920,362.66	172	\$1,765,692.00	167	\$1,222,682.13	28	\$189,447.00
BUILDING MECHANICAL ALTERATION	0	\$0.00	96	\$788,334.00	0	\$0.00	23	\$3,519,879.00
BUILDING MECHANICAL FIREPLACE	0	\$0.00	105	\$340,803.00	0	\$0.00	18	\$67,300.00
BUILDING MECHANICAL HVAC APPLIANCE	0	\$0.00	295	\$1,833,426.84	0	\$0.00	32	\$236,253.00
BUILDING MECHANICAL NEW CONSTRUCTION	0	\$0.00	396	\$12,532,930.55	0	\$0.00	50	\$1,894,695.00
BUILDING MECHANICAL OTHER	0	\$0.00	2	\$2,453.00	0	\$0.00	0	\$0.00
BUILDING MECHANICAL WATER HEATER	0	\$0.00	217	\$318,427.69	0	\$0.00	19	\$31,599.00
BUILDING PLUMBING	403	\$12,085,891.00	527	\$12,790,568.53	74	\$807,723.00	62	\$1,104,177.11
BUILDING SEPTIC	3	\$26,900.00	1	\$0.00	31	\$5,500.00	48	\$0.00
BUILDING SEPTIC EVALUATION	0	\$0.00	0	\$0.00	0	\$0.00	1	\$0.00
Total	2526	\$27,088,753.66	3058	\$31,318,191.61	272	\$2,035,905.13	281	\$7,043,350.11

**PERMIT ACTIVITY REPORT - YTD
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	10/2017	10/2016	10/2017	10/2016
Living Units	Units	Units	Units	Units
HOTELS	0	111	0	0
OTHER NEW	0	0	0	0
FIVE OR MORE FAMILY	60	30	0	0
HOTELS	98	0	0	0
OTHER NEW	0	0	0	0
ROWHOUSE	0	6	0	0
FIVE OR MORE FAMILY	0	48	0	0
OTHER NEW	0	0	0	0
MANUFACTURED HOMES	35	50	0	0
2-UNIT DUPLEX OR CONDO	0	12	0	0
ROWHOUSE (2) 1-HR FIRE SEPARATION	90	124	1	0
SINGLE FAMILY DETACHED	165	202	38	32
Total	448	583	39	32